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PEACE—AND THE NEXT WAR
THOMAS POWERS

'BAD THOUGHTS' & BLAND ONES
JOHN GARVEY

The death sentence for affirmative action?
ISIDORE SILVER

WILD KNIGHTS & HOLY WARS

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Correspondence

Never been tried

Springfield, N.J.

To the Editors: Will the real Robert F. Drinan please stand up? In his review of Guenther Lewy's *America in Vietnam* [Feb. 2] Father Drinan warns that the book might provoke a "witch-hunt to discover who lost Vietnam" and yet he demands (right, Father?) that America have "the courage to demand a comprehensive inquiry into the longest war in American history." (In which case the Kennedy half-dollar might be removed from circulation?)

Father Drinan finds it "incredible to accept the notion that the United States will not prosecute the American war criminals in the same way that it punished General Yamashita after the war in Japan." In the safety of 1979 (I would have had to run for cover if I had asked the same question in 1946) I ask if there were any American war criminals in World War II and, if Father Drinan would say that there were, they should be tried by Germany and/or Japan? Or is William F. Buckley's crack about "victor's justice" really accurate?

ALFRED H. MURPHY

I feel a draft

Great Neck, N.Y.

To the Editor: Robert F. Drinan's incisive and clear-headed condemnation of the pro-war conclusions expressed in Guenther Lewy's *America in Vietnam* [Feb. 2] was very well-done. But allow me to add a postscript to those brooding hawks who haven't lost their itch to intervene and have set out once again to prove that America hasn't lost its nerve.

Nowhere is that lust to reheat the Cold War more evident than in the broad hints by the Carter administration that a military draft is coming. Along with a litany of arguments against its reinstatement, a renewed draft would once again open Vietnam's bitter divisiveness and—in Father Drinan's words—force us to relive the nightmares and refight the war.

A draft is also a harbinger of future military interventions. The time to fight against them is now.

MURRAY POLNER

Therapy & theodicy

Brooklyn, N.Y.

To the Editors: Kudos to John Garvey for "Sick, Sick, Sick—or Evil" [Feb. 2]. As an admitted liberal who sees value in the psychotherapeutic process, for example, I must also acknowledge its limitations. I am growing weary of the suggestion that the individual's failure to grapple with his/her own problems is at the root of all conflict.

Garvey is right; description is not explanation. The theodicy problem is still with us, and the demons that exist in and around us will not be trivialized or therapized away.

MAUREEN DWYER

Faculty power

Sea Cliff, N.Y.

To the Editors: Contrary to what Dennis O'Brien states in "Collective Vision & Collective Bargaining" [Feb. 2], I did not, in writing for *The Chronicle of Higher Education*, "accept the basic argument of the [U.S. Second Circuit] Court" in its recent decision that Yeshiva University faculty are not entitled to organize under the terms of the National Labor Relations Act. The Court's basic argument was that faculty *are* managerial and supervisory; I agreed only that we should be. Disagreeing about reality, the Court and I disagreed about the means of altering that reality—with the Court ultimately denying the Yeshiva faculty a practical means to achieve its managerial end.

But, I admitted, ironically that may be just as well. For unionization can become an unhealthy artificial substitute for natural organization. If collective power is not backed by communal principle, the members of any union are more a herd than a body politic.

At Yeshiva University, the failure of unionization has strengthened the faculty's organizational resolve. Having been told that we are managers and supervisors, we are now determined to act as such at every turn. The result is a more cohesive, vigilant, principled faculty, determined to exercise authority as well as to command it.

As to Mr. O'Brien's concluding thesis that, generally speaking, "both presidents and professors are equally and mutually tyrannized by the anarchic character of the university," I cannot accept that either. It is good to recall the old legal maxim, "Corporate bodies have no soul," before blaming institutions for human faults. At Yeshiva, our faculty was somewhat anarchic, but as we realize that a cluster of primadonnas does not compose a fine performing company, we are learning to exercise our managerial, supervisory power more responsibly.

Painful experience has reminded us that the word *facultas* means power or capability. Before Plato's Republican order is restored to an anarchic university, it is also necessary, however, for administrators to accept the role, expressed in their title, of ministers.

PAUL CONNOLLY
Associate Professor of English
Yeshiva University

Albany renewal

Salem, N.Y.

To the Editors: Another effort towards movement and growth "Within the Structure," of Abigail McCarthy's mind of 19 January 1979, is the invitation to shared responsibility extended this past Fall, by Howard J. Hubbard, the ordinary of Albany, in New York.

Entitled, "We Are His People," the pastoral proclaimed a diocesan-wide call to examine the same fact anew. Since

(Continued on page 190)

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PEACE-MAKING: A NEW POSTURE

THE PROMISED peace settlement between Israel and Egypt both gives a new luster to the leadership image of President Jimmy Carter and marks a key moment in the gradual development of a comprehensive new American foreign policy in the Middle East.

This promise has come against the background of two of the most difficult and critical months in recent American diplomatic history: months characterized by an unusual interaction of, on the one hand, personal factors—like the emotions, principles and religious visions of the national leaders involved—and, on the other hand, political and cultural factors—like the sudden emergence of pan-Islamism as a political force, the shift within Saudi Arabia away from too close identification with the United States, and the murder of our ambassador to Afghanistan—over which our government has had very little control but which some image-conscious Americans tend to interpret in personal terms, as if we were letting ourselves be pushed around by the wise guys on the street.

Seldom has an American president taken such an active and intimate role in the details of international negotiations. During the 1976 presidential campaign we heard a lot about the encyclopedic memory, the subtle intellect, personal charm in small groups, super-human capacity for work and religious fervor of the Georgia governor; then, as his administration progressed, his brain power, personal charm and pious zeal seemed to have had limited impact on the welfare crisis, inflation, national health insurance or the South Bronx. Yet these qualities—plus the willingness to respond to the vision of peace by taking a bold, almost unreasonable, risk—may have made it possible for him to achieve the peace that has eluded his more pragmatic predecessors. This particular type of courage, in this instance, is unusual, tempered as it is by patience and a humility a certain type of *macho* American mind is ill-equipped to understand: a willingness to suffer personal abuse and inconvenience for the greater good. Columnist Joseph Kraft, for example, while conceding Carter "high marks for what he did," laments "the spectacle of a shuttling president, begging Sadat and Begin to be reasonable, accommodating his moods and schedule to their most idiosyncratic political needs," and *Time*'s Hugh Sidey worries about Carter's worldview becoming "increasingly biblical," with his (to Sidey) disturbing talk about "the downtrodden" and (horrors!) the "courage of non-violence."

Now that the President has achieved a personal moral triumph, his administration must fashion a new policy that takes into account the broader historical shift in the Middle East—with the United States, in effect, as John C. Campbell describes the process in a recent *Foreign Affairs*, managing an "empire" which it has accidentally acquired with the consent of the local governments since the October 1973 war. The problem of management, as he says, is essentially one of adaptation without

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losing sight of hard interests: we must stay strong enough militarily to discourage Soviet military adventurism, yet realize that all the basic decisions in the region must be made by the local governments; and meanwhile we must lead other nations—including the Soviet Union—to share our common interests in regional stability.

That is the long view. More immediately, the United States has three other problems to solve. Now that we have arranged the peace, we must finance it—with both economic and military aid, at an estimated cost of $15 billion over the next four years. From the start, in November of 1977, Sadat's peace initiative risked reinforcing his alienation from the rest of the Arab world; but he took the risk partly because his own economy—where the average Egyptian scrapes by on less than $250 a year—could no longer support the anti-Israel crusade. Now Egypt, which already receives $1 billion a year from Saudi Arabia, which may back away, and another billion from the U.S., will need even more—ideally enough to save it from the kind of chaos that has hit Iran but without the kind of relationship that would turn Sadat into another Shah.

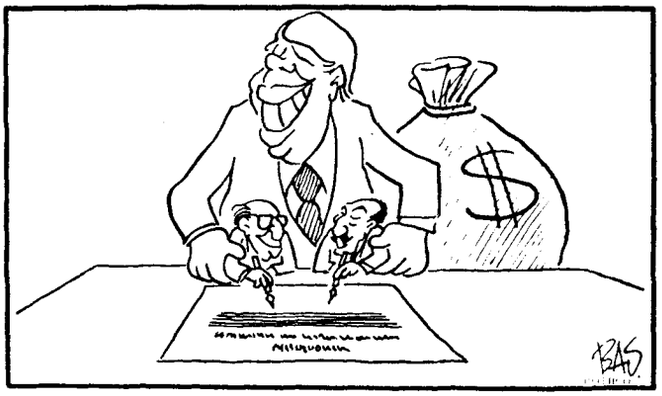
Second, this "peace" will never work unless the Palestine problem is solved. We have committed ourselves again and again to the "legitimate rights of the Palestinian people," and Carter himself has referred to a Palestinian "homeland." That had better not be, as one Carter aide implied in a conversation with a *Newsweek* reporter (March 19), "lip-service." The negotiations to lay the groundwork for establishing Palestinian self-rule on the West Bank and in the Gaza Strip will go on for over a year and the Jordanians and Palestinians have not yet agreed to take part. And once again the United States will be a full partner in the bargaining, turning the dollar flow off and on to help Israel and Egypt to live up to their commitments.

Now the United States is groping for a new posture in the region, one that will both preserve the reputation that the President has earned this year as a peace-maker and also show that we are neither ashamed nor afraid to use force when the situation requires it. This is no easy matter. It has seemed prudent that the United States should protect our interests in the Saudi Arabian oil fields during the recent invasion of Yemen by Soviet-backed troops from South Yemen, by speeding up arms shipments and by ordering the *USS Constellation* to steam from the Pacific into the Arabian Sea. Yet how far should we go without sufficient public discussion, in establishing a new string of military bases in the area? In the long run we are more confident with the patient, exhausting, low-keyed diplomacy of President Carter and Secretary of State Cyrus Vance than we are with what James Reston has described as Zbigniew Brzezinski's "drama of confrontation." The problem is to strike a balanced posture that both respects the values of "religious non-violence," and shows a quiet strength that allows us to stick up for our rights without resorting to the *Mayaguez* mentality of the previous administration.

COMING: Jack Miles writes on Christian totemism and the Mass.

Robert Howard talks with Youngstown's dispossessed steelworkers.

Saul Maloff reviews Bernard Malamud.



IS THE AFL-CIO WRONG?

THE AFL-CIO is taking flak on its effort to derail President Carter's "voluntary" anti-inflation program. According to present plans, the labor organization will ask the courts to prevent the administration from enforcing the anti-inflation program by denying government contracts to companies that violate wage guidelines. Withholding government contracts for non-compliance, charged George Meany, amounts to a form of mandatory wage-price controls that Congress has refused to authorize. The President, Mr. Meany said, lacks the power to impose such a program unilaterally. The proposed suit would not prevent the government from seeking voluntary compliance with its wage and price guidelines, but it would emasculate the program by removing the only official sanction against violators. As such, the AFL-CIO suit amounts to the strongest challenge thus far to the administration's five-month-old inflation program.

Under present regulations the government requires that firms seeking government contracts of $5 million or more certify compliance with certain standards, including a provision that it will not exceed seven percent for annual increases in wages and benefits. The companies in turn take this posture at the bargaining table, and the unions complain that this thwarts their right to free and unfettered collective bargaining. The issue is a very practical and pressing one: many companies that are bargaining this year, including the big auto, rubber and electrical manufacturing firms, have millions of dollars worth of federal contracts and can be counted on to argue that seven percent is absolutely as high as they can go.

Opposition to the AFL-CIO plan is easy to understand. If the AFL-CIO should win its case, its victory would be a fatal blow to the Carter anti-inflation effort, which is already in deep trouble. And inflation is the enemy of all, employer and worker alike. All this is true enough. Nonetheless, attention should be paid to labor's argument. Basically. AFL-CIO says that the Carter program has a built-in tilt, that it holds down wages far more successfully than it does prices. Anyone who

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doubts the truth of this argument has only to look at the price of food, health care, housing and energy—all basic necessities for the working man and all of which are relatively unaffected by the Carter guidelines. Real take-home pay is increasingly eroded; the average paycheck now is worth only $1.10 more than it was in 1968, and almost $5 less than it was in 1972. What the AFL-CIO wants is mandatory rather than voluntary wage-price controls, evenly spread across the board for everyone. It may be that the AFL-CIO is being hasty; it may be that the Carter voluntary program will still take hold and make an effective mark on the economy. It will be interesting, though, by the time the labor suit arrives in court, to see if the editorialists are still quite so convinced that the AFL-CIO case is dead wrong.

1980 Winter Olympics

PRISON GAMES

FROM GOLD MEDALS TO HANDCUFFS

WEARING THEIR bronze, silver, and gold medals, in February 1980 the world's youthful monarchs of rink and slope will leave the Winter Olympics at Lake Placid, New York. The joyful cries of these largely European, North American, and Japanese privileged youths will have barely faded away from the dormitory corridors when they will be replaced by the doleful voices of ghetto males their own age, 18-25, convicted of federal offenses and drawn mostly from the New York City Metro area. Their voices will convey induction into the macabre rituals of American prison life.

Modern Olympics are expensive, political, and dangerous. Montreal paid $100,000,000 for 1974 Olympic security alone. Quebec, stuck with a $1 Billion Olympic debt, is fighting for the Canadian national lottery to pay it off. Colorado citizens rejected the Winter Olympics by statewide referendum. To get the 1980 Olympics the Lake Placid citizens, beset by high unemployment, lobbied in Albany and Washington and got what to date has been a rather open-ended supply of tax monies. They cannily figured that Uncle Sam would not let down such a semi-sacred event as the Olympics once an American locality was committed to it.

To secure federal funds an "after-use" for the Olympic facilities had to be guaranteed. The local Congressman, Robert C. McEwen, rejecting a sports after-use, dovetailed plans for a medium-security federal prison in the Northeast with dormitories for Olympic athletes. A $22 million appropriation was waltzed through judicial committee mazes in Congress, the stated *primary* purpose that of housing Olympic athletes (two weeks) and the *secondary* purpose being a prison (perhaps 100 years). Some committee members are not happy about it all. The Federal Bureau of Prisons is the builder and owner of the dormitories. For $1 New York State sold the FBP 150 acres of prime Adirondack Park land.

Enter major denominational and criminal justice groups. The Olympic Prison's location, 300 miles from the inmates' homes, violates even the Bureau's own standards for location close to family, clergy, and lawyers. Without naming places, it insists that it tried numerous other sites near New York but was rebuffed by area citizens. The FBP hints at a "shuttle bus" for families (600 miles round trip).

Church bodies insist that the location is inhumane, like locating a city jail 300 miles away from the city it serves. Families, mostly low income, will almost never visit their sons, fathers, and husbands. One bus a day 10 months a year from New York City. No bus station in Lake Placid and the prison is five miles out of town. Expensive motels and restaurants. One high ranking FBP official told this writer that even his federal per diem expense allowance was insufficient for Lake Placid living. The minority families (40 percent of federal prisoners are minority and increasing) will not find it easy in this swank resort.

The almost windowless "dormitories" resemble huge round gun emplacements more than structures where human beings will be caged the next hundred years. They are the new sanitized 1984 electronic surveillance type. Though the FBP will host 1800 athletes in these walls it promises to cage no more than 500 prisoners. Some fear the final figure will exceed 1000.

Except for 12 Lake Placid-area clergymen all church groups taking a stand so far have condemned the prison after-use. Meanwhile, federal auditors are raising questions about nepotism, double expense accounts, questionable contracts, and slipshod practices. Lawsuits are filed over mail fund-raising. Perhaps basic is that small-time operators with no previous practice are playing with tens of millions. The new $100,000-plus czar hired to clamp down the lid said "the fun is over." With the games still 13 months away the scene is one of confusion, rising tempers, and certainly increased opposition to the prison.

Increasing rumblings are coming from foreign nations. What form resentment from athletes themselves may take nobody knows but it could be significant. The combined STOP forces (Stop the Olympic Prison, 3049 East Genesee Street, Syracuse, New York 13224) will continue resistance until the opening gun, and afterwards.

Meanwhile, the Moratorium on Prison Construction group of a wide spectrum of penal experts insists that the FBP is a growth industry dedicated to increased taxes, budget, staff, and buildings. It insists there are better and cheaper ways of handling the largely non-violent federal offenders such as increased probation, restitution, shorter sentences, and work-release programs, and that the upcoming decline in the 18-25-age population means many fewer violent type criminals.

Disturbing questions persist: Would we allow American athletes to live in a Russian prison at the 1980 games? Is it worth it all to place inmates 300 miles from family? To give a depressed area a few jobs is such an arrangement justified? Will the TV programs in 1980 on ABC be worth the macabre

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prison background? What is America's soul worth?

The skaters and skiers will depart; the handcuffed young men will arrive. And for a century their low-income families will spend their last dime to board the one-a-day bus to a distant place called Lake Placid. Can this grim arrangement be redirected to a purpose truly in keeping with Olympic tradition? Yes, it can be if enough American citizens express their concern to Congresspersons, Senators, and President Carter.

GRAHAM H. HODGES

(The Rev. Graham H. Hodges is pastor of Emmanuel Congregational Church, Watertown, N.Y.)

Report from Canada

THE HO-HUM ELECTION

EXPLORING THE NORTH POLLS

THE YEAR 1978 was to be an election year in Canada. In April the call for federal elections was to come any day, any week. Polls came and went, rumors lived and died, summer came and speculation began about fall elections.

Three provincial elections were due. There were a number of by-elections on the back burner: fifteen vacant federal seats to be filled by mid-October. If federal elections were called for that time the by-elections would not be necessary. That date came and went and the by-elections were on. October elections were called for Nova Scotia, New Brunswick and Saskatchewan. Pundits were flooded with data; they had the polls, fifteen by-elections and three provincial elections to work on, as well as a dramatic fall in the value of the Canadian dollar, increased unemployment, and continued high inflation.

As indicators of political fortune, all of these sources are dicey. American readers are familiar with the vagaries of opinion polls and the ambiguous impact of such things as unemployment and falling currency values. Provincial elections in Canada seldom provide any real indication of federal trends—perhaps the best example is Ontario, where voters have consistently returned a strong conservative government for over thirty years, and as consistently returned a majority of Liberals to the federal Parliament. If this were not enough, the three provincial governments at issue were held by three different political parties: Liberals in Nova Scotia, Conservatives in New Brunswick, and New Democrats in Saskatchewan. By-elections are also difficult. In most cases—and 1978 was no exception—they provide electors with a chance to express disapproval of a government with no risk of unseating it.

It was a hard month for the Liberals. In the by-elections they were wiped out everywhere except Quebec, where they captured one seat. The Liberals lost heavily in Metro Toronto, where they had hoped to hold, and lost as predicted in Nova Scotia, New Brunswick and the West. Some observers saw the hypothesis of a wave of anti-governmental feeling supported by the election of a New Democrat in Newfoundland. Newfoundlanders smiled and noted wryly that the winning NDP candidate had enjoyed the support of the fisherman's union.

The Tories swept the provincial elections in Nova Scotia, except in Cape Breton Island, where they failed to take a seat. "This is not an anti-governmental vote, but an anti-Liberal vote," said smiling Tories from coast to coast. "Trudeau's time has come!"

In New Brunswick Premier Richard Hatfield's Tories were returned to power with the loss of a few seats. The francophone *Parti Acadien* failed to take a seat but did better than ever before in the popular vote, mostly at the expense of the Liberal opposition. "Another anti-Liberal vote," said jubilant Tories.

The thesis of a conservative reaction was badly upheld by the comfortable victory of Alan Blakeney's New Democratic government in Saskatchewan.

Postal workers were legislated back to work following a short but bitter strike and open defiance of the legislated solution to the strike; they complied only when threatened with massive layoffs. The bitterness remained, and while the mails continued to move over Christmas and into the new year, no real solution is in sight.

In Prince Edward Island, Premier Alex Campbell resigned, leaving an already weak Liberal government in an even more precarious position. Except for the federal government, this is the last Liberal government in Canada, and can survive a vote of confidence only with the tie-breaking vote of the speaker. In Prince Edward Island, that may be enough to keep them in office for some time.

With the Tories and the press hot on their heels, the federal Liberals have adopted a conservative style, featuring cuts in family allowances and restrictive changes in unemployment insurance, all amounting to a two-billion-dollar cut in the federal budget.

The diminutive New Democratic caucus in Ottawa attempted to block the changes in unemployment insurance in committee, but the changes were railroaded through the House just before Christmas. In the upper chamber, one Liberal Senator voted against it. Traditionally, the Liberals have supported generous transfer payments and an unemployment insurance program that worked very well for the four percent unemployment rates for which it was designed. At eight or nine percent unemployment, the program runs a large deficit. It is now a matter of political survival—very few unemployed persons make campaign contributions, and their political clout is negligible. So even this modest redistribution of wealth had to go, although it was cut back, not phased out.

This will be an election year for the federal Liberals, and while the polls have lessened the Tory lead, the Liberals are still very much on the defensive. Joe Clark, the Tories' lackluster leader, bumbled his way through a trip around the world in January, ostensibly to give him some exposure to international problems in anticipation of his becoming Prime Minister this year. Had the elections been called last October,

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the Tories would almost certainly have been returned, perhaps even with a majority. This, of course, was why elections were not called, and it is now beginning to look as if Mr. Clark peaked too soon, although the Tories still lead in the polls.

One thing appears certain in the wake of the October by-elections: the Tories' hopes of building a constituency in Quebec have little or no foundation. Even Joe Clark seems to talk less about the future of his party in Quebec in recent months. The fact is that the Tory image remains inestimably alien to Quebec. A Tory in Quebec is in much the same position as a Republican in Alabama in 1932; one wonders why they bother at all.

As for René Lévesque and the *Parti Québecois*, they can for the moment look to the future with some confidence. The Quebec Liberal Party saw a short spurt of new life and blood with the election of Claude Ryan as leader. That has gone. The PQ does not take part in federal elections, but in the October by-elections they appear to have smiled on the Liberals. Nothing in fact would suit them better than to have Trudeau's brand of federalism rejected by English Canada in a Tory sweep of the country accompanied by a Liberal sweep in Quebec. For Lévesque and his party, this would represent a rejection not only of Trudeau's Liberals by "les Anglais," but also of Quebec itself.

Now that the ruling Liberals have chosen the way of fiscal conservatism and budget cuts to impress the electorate, the Tories have apparently decided in favor of a radical new look at deficit budgeting. Joe Clark has come out in favor of a larger budget deficit as a stimulus to the flagging economy. The Liberals have cut the federal sales tax—the one that no one ever sees—from twelve to nine percent to see whether that will stimulate the economy. Last year an Ottawa-financed reduction in provincial sales tax failed in this; people saved it instead of spending it. The Bank of Canada has raised its rates to an unprecedented eleven and one-fourth percent in an effort to restore the fortunes of the dollar. The Tories, many of them free enterprisers who do not believe in governmental management of the economy, are attacking the government for mismanagement of the economy. As the country awaits spring elections with a certain air of resignation and acute boredom, the game goes on.

There are in fact few real issues. A contest based on the personality of the two leaders is as uncertain as is the attempt to discover who is on what side of what issue. In the end it may come down to a measure of the comparative strength of dislike for Mr. Trudeau and boredom with Mr. Clark. Meanwhile, hockey is more exciting.

JORDAN BISHOP

(Jordan Bishop, a regular contributor, teaches at the College of Cape Breton in Nova Scotia.)

Of several minds: *John Garvey*

BAD THOUGHTS

WHAT WORRIES ME IS BLANDNESS

"BAD THOUGHTS" meant one thing when I was a boy in St. Agnes Grade School. The phrase didn't mean thoughts of vengeance or murder; it meant thoughts having to do with sex, which were sinful if you "entertained" or "dwelled on" them. Both words, "entertain" and "dwell," had a nice salacious air. I remember an excruciatingly explicit examination of conscience which was read out to us once a month in the sixth grade. It must have been designed to make sure that if you hadn't had a bad thought at the time the reading began, you would certainly have had several by the end. During this exercise we put our heads down on the desk, arms folded for a pillow, eyes closed for privacy, while a list of specific sins was read out—boring for the first four commandments, having to do with idolatry, profanity, missing Mass, servile work on Sunday, and disobedience to parents; then it picked up as we moved through the violent fifth, and got downright interesting as we waded into the sixth: now we got to the meat, as it were. Here we heard about lustful looks, immodest dress, lewd books, impure touches, and with our eyes closed the whole deck of sins took on a detail as intricate as brocade (red brocade, in fact). We had a lull through the seventh and eighth commandments; then there was the ninth, about other people's wives—we all knew what *that* meant—and we heard the wonderful miserly sound of the word "covet." The rest was anti-climactic, and after a prayer to the Holy Spirit we were trotted off to church and into the box, one at a time, where we made the same confessions we had made for months on end. It was always roughly accurate; you learned how to tone down the most shameful things by being a bit modest about them and sandwiching them in between relatively innocuous sins, and if you exaggerated the number of times you had sinned you figured you were automatically covered: God couldn't blame you for confessing *too much*.

Hundreds of thousands of Catholics went through this sort of thing. While we may regard that part of the past with amusement, or loathing, or nostalgia, few of us are sorry that those days have gone forever. Those of us who have remained Catholic despite everything may not regret having gone through what we did (as one writer said a few years ago, it was funky), but I think most of us are happy that our children are not going through the same obsessive, legalistic routines. In the school my children attend, for example, confession is handled with a refreshing difference. The empha-

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sis is less on law, more on reconciliation, and there doesn't seem to be the dread of confession which I remember.

But I think my children may be missing something. I began to wonder what it was when a friend of mine, a Jew, mentioned the fact that almost all of her close friends were either Jews, Catholics, or ex-Catholics. I realized when she said this that the same thing was true of me, and that the friends who didn't fall into those categories tended for the most part to be Southerners.

I confess: that's narrow, parochial in the worst way. It is, nevertheless, true, and the reason could be that Judaism, Catholicism, and being Southern are all "think cultures," ways of life. If you come from one of those backgrounds you know, among other things, that you are somehow different from other people . . . not better (well, not necessarily) or worse, but certainly different.

I am not about to defend some of the differences. There was a smug sense of superiority to Protestants (identified, during grade school, with public school kids) which was as far from simple decency as it is possible to get, but this was in large part a reaction to *their* assumption of superiority. It has to be remembered that parochial schools were founded because of a deliberate effort on the part of the American public school system to de-Catholicize the children of immigrants. Self-consciousness about being Catholic, and therefore about being different, helped us toward a realization that some ideas and values matter deeply. Stories of saints who had died for the faith let us know that there were times when the stakes were high, and sacrifice would be called for. Of course it frequently got silly, and of course there were oddly enthusiastic teachers who were more interested in the dreadful details of martyrdom than in the principle being died for—but was it possible, or is it possible, for values to be discussed in any other American system of common education, without the fake democracy insisted upon by some educators? ("I think Socrates was right, but what do *you* think, Billy?") It surely doesn't require the dreadful examination of conscience routine that we were put through, and I am glad that is something my children won't have to suffer; but at least in parochial schools we were able to hear that some things matter to the death.

It may still be there. But when I go into a church and see banners which say things like "Have a Nice Day" or when the kids bring home cards with stylized pictures of wheat and a few unchallengeably pleasant words, something in me yearns for a holy card of St Lucy bearing her very real looking eyeballs on a plate: now *there's* religion.

What I'm worried about is blandness. It is something nobody ever accused Catholics or Jews or Southerners of before, but it is worth worrying about when you meet people involved in religious education who speak of "input" and "output" and even "throughput." I know they will all die some day, but in the meantime my children are in school. Are they better off hearing from a young priest who worries about getting in touch with his feelings, or from the weird but by God interesting people who believed that the devil was around the corner waiting with a ball bat? I have a strong feeling that the latter scary picture of the way the world works may be closer to the truth. And I have to ask myself if any other culture could have produced the fierce and utterly right anger which the Berrigan brothers and other members of the Catholic left brought to our understanding of the war in Vietnam—could the WASP desire for universal good citizenship accommodate that? I don't think so; you have to come from a tradition which knows that kings can be evil. This culture has also produced a unique self-consciousness: American Catholics have had to think of themselves specifically as Catholic in a way which doesn't happen anywhere else on earth. Since it had never been an established church, and there was no chance of its ever becoming one, American Catholicism had to understand itself from the beginning in a new way, and this contributed immeasureably to the most revolutionary insight of the Second Vatican Council, the understanding that Christianity is among other things a real perception, and not an institution to be defended like a bank or an armory.

When I go to Mass and listen to the flat lack of cadence which characterizes our liturgy, and when I see some of what my children bring home from school, I worry about blandness. But there is hope. My daughter not long ago expressed an encouraging fear, one which seems to me quintessentially Catholic. She was afraid, she said, that she might some day have a vision. JOHN GARVEY

Of several minds: *Thomas Powers*

THE NEXT WAR

WHY FEAR OF WAR ISN'T MUCH USE

FROM JOHN HERSEY'S Hiroshima: *"Mr. Taminoto . . . was the only person making his way into the city; he met hundreds and hundreds who were fleeing, and every one of them seemed to be hurt in some way. The eyebrows of some were burned off and skin hung from their faces and hands. Others, because of pain, held their arms up as if carrying something in both hands. Some were vomiting as they walked. Many were naked or in shreds of clothing . . ."*

But why go on. We know all that: 100,000 dead in Hiroshima, Nagasaki, Dresden, Hamburg. The horrors of war have not been kept a secret. We've read about napalm, cluster bombs, free-fire zones in Vietnam, starvation in Biafra. Photographs have helped us to see. We're well-informed. Everyone agrees war is a terrible thing; no one has been able to do anything about it.

One thinks of war the way one thinks of his own mortality: in flashes of great clarity—suddenly, vividly, intensely—and not for long. It comes and goes. A picture, the odd sentence buried in a

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news story, a piece of film on television—like a pain in the chest, a lump under an arm—will make us see that this is real, such things happen, they might happen to us. We live with war the way we live with disease and old age. People really get cancer. The nursing homes are filled. Wars really happen. We know all that.

The fear of war is not of much use. We've been afraid of war for nearly 35 years, since the end of the last big one. In the meantime we've been in two smaller wars. We've spent a trillion dollars for old wars, present wars, potential wars, other people's wars, future wars, and we've done it with a good working knowledge of what war involves. It is not only fear we've experienced, but the awful sense of futility and resignation, the anguish of knowing what waits in the wings, the shame of not caring, pity, guilty forgetfulness. None of it matters, none of it works.

Before long, if the papers are to be believed, the United States and Russia will sign a second SALT treaty limiting—perhaps directing would be a more accurate word—the development of nuclear arms. The Senate must then decide whether or not to ratify the treaty. The argument is sure to be an emotional one, but whatever the outcome, nothing fundamental will change. Both sides will retain a capacity for destruction on a scale beyond the limits of human imagination, however well-informed. Some of us will allow ourselves to pretend for a time that SALT matters because it is a step, a symbol of commitment, a gesture of hope and possibility. But nothing will change.

From a report of the bombing of Nagasaki by William L. Laurence in the New York Times, *September 9, 1945.*

"I watched the assembly of this man-made meteor . . . and was among the small group of scientists and Army and Navy representatives privileged to be present at the ritual of its loading in the Superfort. . . . It is a thing of beauty to behold, this 'gadget.' Into its design went millions of man-hours of what is without doubt the most concentrated intellectual effort in history. Never before

had so much brain power been focused on a single problem."

This struggle—if such a mismatched conflict can be awarded the dignity of the word struggle—has already been lost. The development of nuclear weapons has been a headlong torrent. Their destiny is to be used in war. When the logic of events is a terrible one it becomes clear only in retrospect, after the facts have already crushed hope. Imagine for a moment that a nuclear war has taken place. Don't concern yourself overmuch with the details of when, or where, or between whom. There are plenty of possibilities. You have survived, as so many survived Hiroshima and Nagasaki. You have time to reflect, whatever may be still waiting in the wings. Ask yourself: did anything, in the years after 1945, ever suggest a different outcome?

One would not have to spend years in a library to find the answer. It is plainly before us now. The capacity for destruction has been growing at an exponential rate for 35 years, without any change in the autonomy of nations to prepare for, threaten, or wage war. The confrontation of the United States and the Soviet Union has been profound, complex, broad in scope, volatile, intermittently critical, and ceaseless, just like the other great confrontations of history between Athens and Sparta, Rome and Carthage, England and France, Germany and the rest of Europe.

Once great powers are set upon a collision course it is difficult to deflect them. Diplomacy and prudence may ease them by one potential occasion for war after another, but eventually prudence fails, the diplomats cannot find words to disguise the unacceptable, and war follows. This pattern is the great commonplace of history. There is a kind of fatality about it. In 1890 the elder Helmuth von Moltke wrote, "If the war which has hung over our heads, like the sword of Damocles, for more than ten years past, ever breaks out, its duration and end cannot be foreseen. The greatest powers of Europe, armed as never before, will then stand face to face. No one power can be shattered in one or two campaigns so completely as to confess itself beaten, and conclude peace on hard terms. . . . Woe to him who first sets fire to Europe . . ." Europe dreamed then, as the world dreams now, that great armies might be maintained with impunity. Crisis followed crisis for more than 20 years, while the diplomats imagined they might always find a way out, until the summer of 1914.

Was the pattern of confrontation and crisis before the First World War fundamentally different from the pattern which preceded the Second? Have we any reason but hope for saying it is different now? Have the two SALT agreements done more to limit missiles than similar efforts before WW II to limit navies? Has the United Nations been appreciably more effective in deflecting war than the League of Nations? It has taken 35 years for us to agree to build only enough nuclear weapons to wreck the world. Time is not making Hiroshima fresher in memory. The rise of China has only muddied the waters. Looking forward we imagine there is still a way out. Looking backward we see there was none.

But you can't write the history until it's happened. The details are necessarily obscure. Only the pattern is clear. Something alters the atmosphere, probably the fact or prospect of a strategic defeat. Perhaps the Eurocommunists come to power in Italy and France, and turn out to be Stalinist after all. Perhaps the King of Saudi Arabia joins the Shah in exile, and their successors invite Moscow to buy oil at five dollars the barrel. Perhaps the Chinese change their mind and drive for Hanoi, or the Russians determine on a pre-emptive strike against Lop Nor, or

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the Poles and Czechs find a way to secede from the Warsaw Pact, or Moscow and Peking patch things up and sign a 50-year Anti-Imperialist Friendship Treaty. These are the nightmares of the world's statesmen. Any one of them would leave some great power feeling desperate and vulnerable, a prescription for clouded judgment. Such things have happened often. War follows. No mystery will attach to it, in retrospect.

From Hersey's Hiroshima:

"Father Kleinsorge went to see her several times. On his first visit, he kept the conversation general, formal, and yet vaguely sympathetic, and did not mention religion. Miss Sasaki herself brought it up the second time he dropped in on her . . . She asked bluntly, 'If your God is so good and kind, how can he let people suffer like this?' She made a gesture which took in her shrunken leg, the other patients in her room, and Hiroshima as a whole.

'My child,' Father Kleinsorge said, 'man is not now in the condition God intended. He has fallen from grace through sin.' And he went on to explain all the reasons for everything."

Let me concede that none of the experts agree. They are almost giddily optimistic. In public, of course, they speak in solemn tones of the dangers—of proliferation, of Russian military supremacy, of a runaway arms race, of accidental war, or war between marginal nuclear powers, even of all-out spasm war. But in private they explain why they're not worried: war between the great powers just doesn't "make sense." There is nothing to be gained commensurate with the loss. Every nuclear power soon discovers just how destructive these devices are, and grows sober in response. The devastation would be "unthinkable." You'd have to be "crazy" to attack a nuclear power with nuclear weapons. "Common sense" precludes their use.

This attitude is nearly universal in professional circles. It is held by defense intellectuals, intelligence analysts, military strategists, high civilian officials of the Defense Department, Rand Institute consultants, generals, arms negotiators, and just about everybody else in the national security community. There are two related reasons for its prevalence. First, pessimism cannot serve as the basis of a career. If it doesn't happen in two years—war, the extinction of whales, devaluation, the end of the oil, whatever—your judgment has been discredited. Bertrand Russell and C.P. Snow have been ridiculed for predicting nuclear war "in the next ten years" back in the mid-1960s. All the warnings will have been amply justified if it takes place in the next *hundred* years, but no official can go on predicting disaster for longer than one Congress without losing the ear of his colleagues.

The second reason is even more briefly stated: the experts are as frightened of nuclear war as anyone else. They don't want one, and allow themselves to be privately hopeful, much in the manner of oncologists determined not to worry about getting cancer.

But that doesn't explain why they base their private optimism on common sense. Common sense is hardly what we depend on for the solution of most serious problems—poverty, the drowning of dolphins in tuna nets, an unfavorable balance of payments, segregated schools, crime, lead from car exhaust, famine in the Sahel, fraudulent advertising, toxic food additives, high medical costs, religious prejudice, the dumping of Japanese steel, oil dependence. These all justify, and in varying degree get, serious attention and practical efforts toward reform or amelioration. A nuclear war would make such problems look immaterial. Why do the men who know most about nuclear weapons depend on something so demonstrably feeble as common sense to prevent their use?

Because there is nothing else.

From an interview with Zbigniew Brzezinski in the New York Times *of December 21, 1978:*

"SALT fits into our broader effort to enhance national security, an effort which we pursue not only through improving our own forces, but also, where appropriate, through arms control . . . In this context, I can assure you that we will never constrain our ability to meet our national security needs. A satisfactory SALT agreement will allow us to maintain the effectiveness of the United States strategic arsenal as a deterrent against nuclear war, based on a credible retaliatory capability in the event war should break out."

If peace is the universal aspiration of man, war is his natural condition. An academic study of international wars between 1816 and 1965, published in 1971 by J. David Singer of the University of Michigan, concluded that 93 wars had taken place during the 150-year period, that 29 million men had died in battle (civilians were not included), that there were 6.2 wars in the "average" decade with dramatic high points every 20 years or so, that Europe was the most war-prone part of the world (followed by the Middle East), and that on the average a war began every three years. The technology of war obviously improved by leaps and bounds during the period, while efforts to control, limit, prevent, or end wars made no appreciable progress whatever. It does not take a statistician to extrapolate the future from a pattern of such pronounced consistency.

Presently the world is armed as never before. At least seven nations—Russia, the United States, France, Britain, China, India and Israel—have nuclear weapons and sophisticated means for their delivery. It is possible, but unlikely, that any country would fire off all it's got, even if backed into a corner, and it is still less likely that all the nuclear powers would fire off all they've got. This means that a nuclear war would not end the danger of nuclear war. Very possibly the opposite would be the case, once national leaders got over their initial surprise at not having completely destroyed the world.

Nevertheless, the most favorable moment for true arms control is immediately after the shooting stops, while the odor of the consequences is still in the air. The last such opportunity came to nothing, as the habit of militarism reduced the horror to fine words. I do not think it is a counsel of despair to suggest that the time to prepare for the next favorable moment is now.

THOMAS POWERS

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Death sentence for affirmative action?

ISIDORE SILVER

IS AFFIRMATIVE ACTION, even to remedy past discrimination, illegal? It is startling to realize, so many years after the civil rights push of the 1960s, that this question has never been finally settled. Although lower courts have repeatedly sanctioned broad affirmative action plans, including ones which imposed quotas to remedy past discrimination, the Supreme Court has never directly approved these measures. Everyone assumed that the Court's failure to review these cases meant approval. That assumption, it turns out, was premature.

The moment of decision is at hand, however; and the prospect for affirmative action is not bright. The critical case is of course *Kaiser Aluminum and Chemical Corporation* v. *Weber*, which the Supreme Court has decided to review. In order to understand the implications of *Weber* and of the Court's likely reaction to it, we must consider not only the facts of the case itself but also the nature of, and the justification for, affirmative action. Only then can the magnitude of the forthcoming decision be appreciated.

I

In 1974 Kaiser Aluminum and Chemical Corporation and the United Steelworkers Union entered into a labor agreement which, in part, provided that the company would create new skilled craft positions in six Louisiana plants and would promote present employees to those positions on a ratio of one black for one white until the number of minority employees in those positions reached a certain percentage. Thus, parity of promotion in one particular plant would occur until 39 percent of all those in the new positions were black. To achieve the parity, separate seniority lists of black and white employees were drawn up. Brian F. Weber, a white man who did not have sufficient seniority on the white list but had more seniority than two blacks who had been promoted, sued and argued that the dual list violated several provisions of Title VII, prohibiting discrimination in employment, of the 1964 Civil Rights Act.

The trial of the matter took one day, and neither side contended (or conceded) that Kaiser had been guilty of racial discrimination prior to 1974. It was obviously not in Weber's interest to do so, nor was it in Kaiser's, for such an admission would open the company to suits by blacks or to governmental action. The trial court upheld Weber, and a panel of the Fifth Circuit Federal Court of Appeals sustained the decision to strike down the program. Last December the Supreme Court decided to review *Weber*, and the case was scheduled to be argued on March 28.

II

The arguments on behalf of affirmative action are hardly unknown, but, depending upon various factors, they vary significantly. In general, affirmative action seeks, in several ways, to remedy America's disgraceful history of employment discrimination against blacks *and* to bring blacks into the economic mainstream of our national life. The remedy may consist of little more than an injunction to employers to make extra efforts to seek out qualified minority applicants. Generally, the higher level of skill required for a particular position, the more likely it will be that government will require only a real and "good faith" attempt to use every reasonable means (including some innovative ones) to open up the candidate pool for the job or jobs. Although there are periodic grumbles about "government pressure," this is probably the least controversial form of the remedy since the retention of the merit criterion is compatible with the added requirement of widening the scope of the search.

The problem becomes more complicated when government agencies (HEW, Labor), or the federal courts require or encourage something resembling quotas or target goals based upon race. Usually, this has occurred where (a) past racial discrimination is a matter of record; (b) the nature of the job is such that skills are not too great; and (c) it is likely that

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minority applicants can readily qualify to fill the positions. For the purposes of this discussion—and of federal law as well—it makes little difference whether we talk of rigid quotas or target goals. The proposed remedy is, of course, race-based.

Although some lower federal courts have been reluctant, most have found that it is legally and morally correct to impose such quotas, goals or targets where there is considerable evidence (often, overwhelming evidence) that the particular industry or craft involved has had a long history of racial discrimination. Those courts have not specified whether affirmative action is designed as a remedy for past wrongs or as a rapid means of economic integration as well. Although minorities other than blacks have benefitted, it is clear that many judges regard the case of black discrimination as unique—and there is much evidence that blacks were discriminated against more pervasively than any white minority group. No other minority, for instance, has had the experience of being pushed or "bumped" out of jobs when a particular occupation suddenly became more attractive to whites, often ethnic whites who were themselves the objects of other forms of discrimination.

A fundamental question is who is to be benefitted and who denied the benefit by a race-based affirmative action program. Courts have been comfortable with the notion that employees who had been particularly discriminated against in the past could be benefitted over and against those who had, innocently or otherwise, been the beneficiaries of past discrimination. Indeed, even the Supreme Court has acknowledged that Title VII can be used to restore victims of discrimination to the "rightful place" they would have had if no discrimination occurred. Significantly enough, Justice Powell, whose vote will be critical in *Weber*, has questioned whether even "rightful place" should automatically overcome the rights of whites who were themselves innocent; his notion of "victimization" is closely tied to certain other beliefs which will be discussed later.

But what of the situation where there are few, if any, minority victims, simply because it was well-known prior to the civil rights legislation of 1964 that a particular industry or trade discriminated? Suppose there were no identifiable victims. Could newer workers—never discriminated against, personally—prevail at the expense of innocent whites? Courts sometimes found that the necessity to root out past discrimination could justify even this kind of race preference. Again, the rationale has not been clear—redress or integration? This, I predict, will be the critical issue in *Weber*. What is the justification for such far-reaching affirmative action?

The dispute revolves around the moral issues of general social responsibility for presumably past practices and the "penalties" visited upon white workers and a resulting sense of unfairness. As with most moral issues, there is no readily apparent choice—except to note that the idea that every individual should be judged on his or her own qualities and that race is a particular onerous criterion (the "color blindness" theory) is a particularly compelling one, as evidenced by Justice Powell's passionate enunciation of it in the *Bakke* case last year.

Yet, the similarly compelling feeling that the present owes a debt to the past cannot be shrugged off. Many of those who in this case passionately argue that the past should be set aside also contend, with equal fervor, that Germans should be exposed to their unsavory past and that "repentance" and even "reparations" (from the presumably innocent) are an appropriate recognition of that debt. Every theory of socialization stresses the continuity of social life, the persistence of attitudes ("folkways," as an early sociologist put it). Why show "Holocaust" in West Germany thirty years later if not to remind even the "innocent" of their culture's great spiritual crisis? Indeed, why show "Roots" in America if not to sear the national conscience? Although I do not wish to equate or analogize American racism to Nazism, it is undeniable that stains on a nation cannot be readily erased from the historical memory or contemporary perceptions.

In the same vein, the discussions about affirmative action have a strangely unhistorical air about them. The current concern for unalloyed individual "merit" is at variance from our national tradition of "interest group politics" whereby great social and economic gains have been made by "groups" which managed to acquire some power often by numbers and cohesiveness alone. Not all members of such groups have been equally meritorious or worthy of those gains. To suddenly require a standard of "merit," especially in realms where that standard may not be readily identifiable, may be intellectually and morally praiseworthy but somehow arbitrary at this point in our history. It should be remembered that employers once used a variant of the same argument—couched in terms of individual dignity and liberty—when contending that minimum wage and maximum hour laws were unconstitutional, since all, workers and bosses, were independent and had equal bargaining power, so that the aid of government was needed by none. Labor unions won their rights to bargain collectively, in part by economic activity and in part by law, after persuading the American people that this apparent equality of bargaining power was not genuine. Indeed, in recent times, American law has singled out special groups (unions, automobile franchisees) for special treatment, either because of a strong moral claim or just an effective lobby. Just why the civil rights movement should not be the (limited) beneficiary of either our laws or conscience, in this context, is not clear.

> "The principle to be announced in the *Weber* case will overlook the realities of contemporary American life and will be based on a simplistic reading of the problem of racial discrimination in employment."

FINALLY, IT is not at all certain that we have escaped our past. The record in the *Weber* case raises suspicions that Kaiser, in fact, had continued to discriminate after the passage of the Civil Rights Act in 1964; that record engenders the

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further suspicion that wholehearted compliance with the noble principle of non-discrimination in other industries and crafts may be lacking. For instance, in Weber's own plant, before 1974, of 28 employees promoted to skilled craft positions only two were black: did this "reflect the general lack of skills among available blacks" rather than "any unlawful practice by Kaiser," as two Fifth Circuit judges thought, or did it mirror a continuing "egregious and recent . . . arguable" violation of Title VII, as the dissenting judge contended? Whatever one's suspicions, the apparent pervasiveness of unequal treatment, in both outright and subtle forms, even after the Civil Rights Act may well justify a belief that discrimination has not been entirely relegated to the past. If so, then government may find remedies as broad as the prima facie problem; certainly, where past discrimination is a matter of record and has been pervasive and recent and where the results of voluntary remediation have been meager, some form of affirmative action is reasonable and appropriate. This should be true whereas in *Weber* (a) such action was voluntary and in good faith and (b) the program was modest—Weber was only *delayed* in being considered for promotion rather than being *denied* promotion on account of race, a point which alone distinguishes the case from *Bakke*. In these circumstances, a pragmatic standard of seniority should not constitute a moral claim superior to that of those benefitted by affirmative action, a program, which, in addition, was only temporary and would cease when blacks made up a certain percentage of the skilled work force.

The Court will have to answer the question whether the aforementioned arguments (and many other, and probably better, ones) justify such a remedy extending beyond an immediate wrong, a remedy which edges toward integration rather than mere redress. (Probably the workers benefitted in *Weber* were not themselves previous victims of discrimination.) Certainly, the Court has permitted other "prophylactic remedies" in similar situations. It decided that the state of New York could recognize black political power in its redistricting procedures, after the state had been found to be in violation of the Voting Rights Act of 1965, a law that itself was a future-oriented attempt to give minorities greater voting rights. Voting may differ from employment in that extension of the benefit need not be a deprivation of it for others; but the issue was whether the law could both extend the benefit and shape it, by concentrating voting power, to aid a group rather than mere individual members of that group. Mere present equality was not sufficient—and the Court agreed. Also, Congress has often mandated that minority groups be given certain benefits (business "set aside" laws for instance which require government contractors to use minority subcontractors) without inquiring whether the particular persons to be benefitted had been previously deprived.

In the employment context, previous deprivation, the difficulty of identifying particular victims of discrimination, the recognition that some strengthening of the previously deprived group also strengthens individual members of the group, all support the creation of a realistic remedy for an intolerable situation. The fact that those black workers likely to have been the victims of past discrimination are probably not available for present employment and cannot benefit from a narrow definition of affirmative action is reinforced by a major reality affecting the discriminated-against group—the devastating young black unemployment rate—to argue strongly for a widening of the principle that only those who can show previous victimization against themselves should now benefit. Even if the Supreme Court does not recognize the permissibility of such widening of the standard, there may be future litigation on the question of just what proof is necessary to show previous victimization. Some federal courts, in permitting "class actions" under Title VII by minorities, have broadened the "class" to include those who had been deterred from even seeking employment and these courts have required remarkably little evidence of such deterrence. In sum, where discrimination has been recent and pervasive and where remediation has been unavailing, affirmative action up to and including quotas, temporary in nature, is warranted and should be extended to those who cannot really prove that they have been particular victims of discrimination.

III

UNFORTUNATELY, THE acceptance of *Weber* by the High Court indicates that recognition of affirmative action will be drastically limited rather than expanded. The Court seems eager to decide not the issue of past discrimination—the government begged it to return the case for a trial on that point—but the broader question mentioned above, do individuals who cannot show particular discrimination against themselves have any civil right to preference at all or are they barred from such preference by federal law? If the Supreme Court answers "yes" then affirmative action will be all but decimated, at a time when it is still vitally needed.

I believe that the Court is ready to say "yes" and will use *Weber* as the vehicle. Four Justices in the *Bakke* case—the "Stevens group" of Burger, Stewart, Rehnquist, and Stevens—clearly believe that individual, not racial, fairness is the criterion established by the Civil Rights Act. Although *Bakke* was a Title VI case (discrimination by agency receiving federal grants) and *Weber* a Title VII case, the anti-discrimination provisions of both Titles are similar, and Stevens cited Title VII cases to support Bakke's absolute right not to be judged by racial criteria. I believe that the enigmatic Justice Powell will join the Stevens group to constitute a majority favoring Weber on very broad grounds.

Powell's view is the most complex. In *Bakke*, he agreed with the "Marshall group" of four (Justices White, Brennan, Blackmun and Marshall) that race can be relevant to selection criteria for admission to medical school. Although, to Powell, "racial and ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination," he found that the goal of a diversified student body was "clearly a constitutionally permissible goal for an institution of higher education"; indeed, it was a goal of "paramount importance." But since the Davis Medical School admission

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program "focused *solely* on ethnic diversity," it "hinder[ed] rather than further[ed]" genuine diversity. Clearly, in Powell's eyes the use of a sole or exclusive racial criterion—as is true in *Weber*—is almost fatal. If Powell reads the Kaiser program as an attempt to integrate blacks, rather than as mere redress for individuals, he will also find it fatally flawed. Minority representation for its own sake, in *Bakke*, was "facially invalid" and "discrimination for its own sake." Powell also ruled out any notion of "general societal discrimination" as a justification. Thus, he will join again with the Stevens group. To those five Justices, *Bakke* simply invalidated any conceivable rationale underlying the Kaiser program—probably this was the reason they agreed to take the case in the first place.

The *Weber* decision may well invalidate affirmative action even where past discrimination existed. The Stevens group will stick to the letter of the Civil Rights Act's anti-discrimination language. Powell's belief that the right to discriminate in reverse can only benefit those previously victimized by discrimination, a position he made clear in *Bakke*, will add the fifth vote. Powell interpreted previous Supreme Court decisions to require that an "identifiable group of white employees" had been benefitted "over other [identifiable] employees." By this criterion, the blacks who benefitted by the Kaiser contract, like the blacks who were admitted in preference to Alan Bakke, could not show previous victimization. Certainly they could not in relation to the new jobs into which they had been promoted, since those jobs were themselves created by the 1974 agreement.

In *Bakke*, Justice Marshall bitterly criticized Powell's view. He protested that the Court had never previously required that the "specific individuals to be benefitted" prove that they had "actually been the victims of discrimination." It is startling to realize that both Powell and Marshall were right. Previous cases had simply never addressed that issue since they dealt with the rights of blacks concededly discriminated against seeking their "rightful place."

OF COURSE, I believe that Powell is wrong, for the reasons previously stated. His position would simply abolish most admissibility of racial consideration—which led him into to sue, as is, of course, their right under Title VII anyway. The Court as a whole could either adopt the Powell position or stand by the Stevens view, since there is nothing preventing this in terms of precedent. By doing either, the Court will, in effect, now reject the rationales of the decisions it formerly refused to review.

What about Powell's slight reservation in *Bakke* about the admissability of racial considerations—which led him into limited agreement with the "Marshall group"? This, too, appears irrelevant to *Weber*. First, *Weber* like *Bakke* involved a plan that focused exclusively on race. Second, it is harder to justify *diversity*, Powell's talisman, in work than in education. In *Bakke*, Powell thought that doctors would be better doctors (or, perhaps, that society would be better off) if they encountered others of diverse backgrounds. Thus, factors in addition to merit—but also in addition to race—could be considered. To argue that diversity is relevant to promotion into craft programs (the *Weber* situation) is to stretch the matter considerably—of course, many thought that diversity was also irrelevant as a rationale for medical school admission.

IV

Weber's fundamental importance lies as much in its demonstration of the Supreme Court's willingness to remove the judiciary as an institution from the task of redressing the effects of racism as in the principles it enunciates. *Bakke* told state agencies that they did not have the ability to redress what they thought to be past discrimination. *Weber*, so far, has sent the same message to private parties. *Bakke* and *Weber* intimate that lower courts can only (and, at most) find and identify specific victims of past discrimination and then make redress only to those victims.

Weber threatens to go even further. Judge Wisdom's dissent pointed out that the status of judicial consent decrees might be jeopardized by the rationale of the majority's invalidation of a voluntarily negotiated agreement, since both a consent decree and a voluntary agreement are remarkably similar in effect though not in form. When sued, a company not wishing to admit past discrimination will often agree to a judicial finding requiring future ratios or quotas; that agreement is pro forma and occurs without much, if any, factual proof of past practices. The formula is then embodied in a judgment ending the suit without a finding of past discrimination. Thus an errant company does not open itself to damage suits, admits no fault, but agrees to do good in the future. To Wisdom, *Weber* either says nothing about this practice—and thereby encourages "friendly suits" to quickly and conveniently accomplish what the contract in *Weber* did—or bars such decrees in the absence of extensive evidence of past discrimination. If *Weber* means the latter, what company would agree to a consent decree, since any requirement of evidence of discrimination to support that decree would invite individual Title VII suits by aggrieved blacks anyway? Wisdom worried—as we should—that this flexible judicial weapon would be found to be as defective as Kaiser's plan.

Powell's endorsement in *Bakke* of previous decisions by lower federal courts—including several involving consent decrees—was qualified by his requirement that they recognized the rights only of those "entitled to the preference." The limited role of the courts in either creating remedies for past discrimination or upholding private, voluntarily negotiated agreements or in endorsing consent decrees envisioned by both *Bakke* and *Weber* indicates the beginnings of the withdrawal of the courts, a withdrawal from a task that, as I pointed out, is far from accomplished. That withdrawal is fully consistent with the Burger Court's general perspective.

Of course, that perspective is not without certain ironies. In *Bakke*, the majority refused to recognize a *state* medical school's initiative, certainly an attack on state's rights. If *Weber* is upheld, the ability of private parties to voluntarily institute affirmative action programs has also been under-

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mined. A nebulous set of congressional statutes will thus supercede both state and individual initiatives, a strange definition of "federalism."

There is one ray of hope for affirmative action. The Court seems to be willing to leave the matter to Congress. In a *Bakke* footnote, Powell observed, "We have previously recognized the special competence of Congress to make findings with respect to the effects of identified past discrimination and its discretionary authority to take appropriate remedial measures. . . ." Even Justice Stevens, speaking for his group of four, said that "Congress's expression of its policy to end racial discrimination may independently proscribe conduct that the Constitution does not." (Stevens's opinion, it must be remembered, was based not on constitutional grounds but solely on what Congress did in enacting Title VI's anti-discrimination clause.)

Since it is evident that Congress will not act, the ray of hope must be refracted through the prism of the executive agencies charged by Congress with carrying out the provisions of the Civil Rights Act of 1964. Will the Court grant those agencies—HEW, Labor—the same "discretionary authority" it professes to accord to Congress? Will it treat administrative judgments about future hiring or promotion quotas or goals or targets with the same deference it would accord to congressional action?

"... the enigmatic Justice Powell will join the Stevens group to constitute a majority favoring *Weber* on very broad grounds."

One cannot be sure, but there is some hope that Justice Stewart, for instance, might well be persuaded to join the Marshall-Blackmun-Brennan-White quartet in *Bakke* on this particular issue. Stewart has been willing, in the past, to interpret the mandate given by Congress to HEW as broadly as HEW did. Since *Weber* even questioned President Johnson's historic executive order on affirmative action ("executive orders may not override contradictory congressional expressions"), it is somewhat comforting to know that there may be a five Justice majority for upholding broad executive and administrative powers.

IF ADMINISTRATIVE determinations of past discrimination are to be the last—and only—resort in affirmative action cases, whether under Titles VI or VII, then those agencies would be aided by the wisdom of the appropriately named Judge Wisdom, who dissented in the *Weber* case. He thought that the test of whether an agreed-upon afffirmative action scheme was valid was whether it was a "reasonable remedy for [an] arguable violation of Title VII. . . ." Wisdom noted that in *Weber* "no litigant wanted to see past discrimination found" and "no one represented the separate interests of the minority employees of Kaiser, the only people potentially interested in showing past discrimination." Still, there was sufficient evidence, he found, that such discrimination had existed. Certainly, the low percentages of blacks employed in both unskilled and semi-skilled jobs at Kaiser prior to the 1974 agreement indicated, to him, that a prima facie case of discrimination was present. He noted not only that "judicial findings of discrimination in craft [occupations] are so common" as to be virtually incontestable, but discrimination was so "effective" that "it is difficult to identify past individual victims." He would have upheld the agreement since (a) arguable violations ("egregious and recent") of Title VII's anti-discrimination provisions *had* occurred and (b) the remedial plan devised by the company and the union to correct them was both modest and reasonable, creating *new* rights to promotion within the company for *both* whites and blacks though it somewhat favored the latter. Certainly, adoption of the Wisdom standards by federal agencies dealing with such notorious violators as craft and construction unions and their cooperating employers might well be found to be reasonable by a majority of even this Court.

It is clear that the Supreme Court, having changed the national consciousness about race in *Brown* v *Board of Education* believes that its role—and that of the judiciary in general—has almost been concluded. While it will defer to Congress—and perhaps to administrative agencies—in the future, the Powell opinion in *Bakke* seeks to shape that future by suggesting to Congress the moral, legal, and political considerations that should attend any consideration of race.

Of course, on either the Powell or the Stevens theory, Congress could act. There is even a hint of populism in Powell's opinion in *Bakke* indicating that a program designed to benefit the disadvantaged of any race would be more favorably received by the Court. But to think that this implied invitation will be answered is overly optimistic. The present Congress is not about to alter extant political arrangements in favor of either the poor or racial minorities. It is ironic that heightened concern for the poor in the '60s was fueled by the obvious legal and social inequalities perpetrated against blacks for centuries. Powell's drastic attempt to limit the amount of racial lubricant fed into the system (if even in the name of a broader populism) may thwart any concerted political effort to redress general disadvantage, especially from a Congress which has become unduly influenced by conservative special interest groups. Without the lubricant of race, the engine of equality will not run—and that is the effect, if not the intent, of the Court's present attitudes and probable future decision in *Weber*. The task of the Second Reconstruction remains unfulfilled. The principle to be announced in the *Weber* case will overlook the realities of contemporary American life and will be based on a simplistic reading of the problem of racial discrimination in employment. Sadly enough, the Supreme Court's attitudes reflect the dominant, short-sighted and ultimately self-defeating mood of the country.

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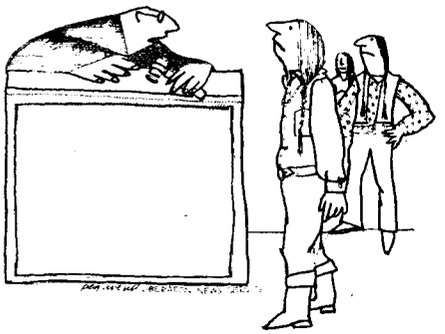

The right to remain Indian

ROBERT A. HECHT

AMERICAN Indians are on the warpath again. Unlike the centuries preceding 1900, however, this warpath is more subtle, and less violent (although some violence has occurred) than the older, traditional warpath that led directly to the enemy camp, and whose purpose was to take something from the enemy, either his horses, his scalp, his life, or all three. Today's warpath employs public relations campaigns, protest marches, court actions, pressures on legislators, national Indian organizations, the support of Hollywood personalities, and other special interest devices that other special interest groups have used in American politics since Jamestown and Plymouth. And today's warpath aims not at stealing property or committing bloody deeds, but at preserving Indian rights, especially the right to remain Indian. For four centuries the Amercan Indian fought for his life; now he is fighting for his way of life. And at the moment he is not doing badly, as a catalogue of recent Indian legal and legislative victories demonstrates.

The non-Indian world generally expresses sympathy for the American Indian whenever the subject of his affairs and history comes up. Most Americans seem aware, however dimly and imprecisely, that the Indian has been a major victim in history, and that something is owed to him in restitution. Few Americans know, however, what the Indian wants from the rest of us. Indeed, the Indians themselves are not clear or united on most of their goals. But they are generally agreed upon these: they want to hold onto their land bases called reservations, maintain tribal self-rule, and keep in force the treaties originally drawn up with the American government, all of which have helped to establish the Indians as a unique people with unique rights and privileges within American society.

The reservation system is a way of providing self-contained, self-governing areas for the Indians, and the treaty system as a way of obtaining agreements with the various tribes, go back to the early days of English settlement in America. While the English did not recognize Indian sovereignty over the lands the Indians occupied, they did generally acknowledge a special political status for the tribes, a status that placed them outside the larger body politic. Within certain limitations, which varied from time to time and from colony to colony, Indian tribes controlled their own lands and ruled themselves.

The treaty system of negotiating with the Indians was continued by the American government in 1776, until being abruptly ended by Congress in 1871. By that time hundreds of treaties had been drawn up and ratified, treaties dealing with all kinds of problems, but whose main purpose in nearly every case was to secure land from the tribes. An interesting and perplexing legal question had been raised by the treaty system, however—since treaties were traditionally drawn up only between sovereign bodies, did this not mean that the American government recognized the tribes as sovereign nations?

It did not. The United States used the treaty system for nearly a century as a convenient method of buying land from the Indians. At no time was Indian sovereignty ever explicitly acknowledged by the American government. It dealt with the tribes *as if* they were sovereign, and *as if* their chiefs could act for their people the way an American president or a European monarch could act for his; but this was merely a device, a handy way of making deals with the Indians. The Indians were considered subject to the national sovereignty and to acts of Congress pertaining to them.

Despite the denial of Indian sovereignty by the American government, however, the federal courts have handed down decisions over the years whose total effect has been to grant the tribes a measure of sovereignty within the larger sovereignty of the United States, if such a condition is conceivable. Chief Justice John Marshall in the early 1830s, for example, in struggling to find a way of defining the legal and political status of the tribes, called them "domestic dependent nations." By this he meant that they were within the United States (domestic), needful of American aid and protection (dependent), and yet had certain powers of self-governance (nations). Marshall never denied that Congress had ultimate authority over the Indians. But his decision, and others that have followed since then, clearly set the tribes apart both politically and legally from the rest of the American people.

In addition to court decisions defining a unique status for the tribes, Congress itself, beginning in 1790, has passed laws contributing to that same end. In that year it enacted the Indian Non-Intercourse Act, which provided that no state could ob-

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tain land from the Indians without Congressional approval. Any sales of land within the states had to be ratified by Congress. This law, for many years ignored, but never repealed, is the basis for some gigantic Indian land claims that are presently working their way through the courts. The largest of these claims, lodged against the state of Maine by the Penobscot and Passamaquoddy tribes, was settled out of court last October. Originally claiming some two-thirds of Maine, or about 12½ million acres of land, these tribes accepted instead $37 million in cash, and 100,000 acres to be added to their present reservations. A number of other eastern states are also being subjected to Indian lawsuits seeking restoration of illegally sold lands. New York, for instance, negotiated 55 land purchases from the Indians after 1790, none of which was approved by Congress. Massachusetts, Connecticut, and Rhode Island are facing similar legal actions from tribes within their borders.

OTHER Congressional legislation since 1790 has continued to acknowledge, either implicitly or explicitly, the separate status of the tribes in America. Not all this legislation, of course, has worked in favor of the Indians, which should not surprise us, since in the 19th century Congress was invariably motivated in its Indian dealings by demands from white Americans to secure Indian lands for white settlement. The long and grim history of the Indians during that century is abundantly illustrated by the conflicts between them and the American military, consistently called in to defend whites infringing upon Indian lands, and the harvest of land cessions, embodied in the form of treaties, that inevitably followed these conflicts. By 1887 the total Indian land base, nearly all of it west of the Mississippi River, had shrunk to under 140,000,000 acres. The treaty system as applied to the American Indians had led to disastrous consequences for them. Their chiefs, through a combination of ignorance and despair on their part, and bribery and threats by American officials, had disposed of nearly all their people's lands by putting their marks on pieces of paper that few of them could read or understand. It had been a great price to pay for the semi-sovereign status that Congress and the courts had conferred upon them.

Between 1887 and 1934 their land base declined even more. Thanks to passage of the Dawes Severalty Act of 1887, which provided for breaking up the reservations (and along with them the tribes) by allotting the land in individual plots to individual Indians, and the selling of the rest to the general public, the Indians lost the bulk of their holdings. By 1934 they were down to 48,000,000 acres (almost half of that barren and unusable), and the future of tribal existence seemed bleak and uncertain.

In the 1920's, however, a number of liberal white Americans, including the anthropologist and future Bureau of Indian Affairs Commissioner John Collier, joining with some prominent Indian leaders, began an extensive crusade for Indian reform. In general the goals of this crusade were to halt the further sale of Indian lands, to improve the condition of Indians in general, and to enlarge and reinforce tribal authority on the reservations that remained. The crusade culminated in the Indian Reform Act of 1934, which produced at least the partial accomplishment of these goals.

Despite a number of termination bills in the 1950s, severing the government relationship with some specific tribes, which led to the reduction of some tribal holdings, and the disappearance of some reservations altogether (the Klamaths of Oregon sold their entire reservation), the Indians have generally managed to remain in business as tribes, and the tribes have continued to exercise considerable authority, through their elected councils, over their reservations. Indeed, one recent complaint from the non-Indian world, and from some Indians, has been that the tribal councils exercise too much authority, to the detriment of the civil rights of many individual Indians.

NATIVE AMERICANS

- About half of all Indians live in urban areas, 28 percent live on reservations, the remainder live in rural areas.
- The ten states with the largest Indian populations:

Oklahoma	98,468
Arizona	95,812
California	91,018
New Mexico	72,788
North Carolina	44,406
Washington	33,386
So. Dakota	32,365
New York	28,355
Montana	27,130
Minnesota	23,128

- Total Indian population, 1970 census: 792,730
- There are about 115 Indian reservations in the United States, the great bulk of them west of the Mississippi River. The biggest reservation is that of the Navahos in Arizona, Utah and New Mexico which exceeds 25,000 square miles (slightly larger than the state of West Virginia) and contains nearly 60,000 inhabitants. One of the smallest reservations belongs to the Pajoaque Pueblos in New Mexico, the population of which in 1970 numbered 33.
- Suicide rate: 32 per 100,000 as compared with the rate for the general population of 16.
- Unemployment rate: an estimated 45 percent compared with about 6 percent for the general population.
- Median family income for 1971: $4,000 as compared with $9,867.
- Infant mortality rate: 30.9 per 1000 live births as compared with 21.8 per 1000 live births.
- Percent entering college in 1971: 18 percent as compared with 50 percent.
- Median years of schooling (1970): 9.8 as compared with 12.1.

R.A.H.

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THIS is one of the interesting peculiarities of the reservation system. In the past two decades both Congress and the courts, and even some state authorities, have moved to the position that the American Constitution does not apply to Indian reservations. In several recent cases the federal courts have concluded that the enactments of tribal councils supersede the Constitution, unless Congress specifies otherwise. This has led to some outrageous violations of individual Indians' civil rights, all sanctioned by the courts, which have refused to assume jurisdiction in these disputes. In some cases the courts have argued that the goal of tribal self-government is more important than protecting the rights of individual Indians under the Constitution. In others, judicial jurisdiction has been denied on the grounds that reservations are not states, but rather self-governing entities within states. The Fourteenth Amendment, which begins, "No *State* shall . . . deprive any person of life, liberty, or property without due process of law," does not apply to reservations since they are not states or parts of states.

A few of these court cases have involved freedom of religion. In *Toledo et al v. Pueblo de Jemez et al,* tried in the United States District Court for New Mexico, six Protestant Indians of this predominantly Catholic reservation charged that the Pueblo tribal council had denied them the right to bury their dead in the tribal cemetery, to build their own church, or hold services in their own homes, to allow Protestant missionaries onto the reservation, or to use machinery owned by the tribe in common. A clearer instance of religious discrimination could hardly be found. The court, however, did not make a judgment; it dismissed the case on the grounds that it lacked jurisdiction.

In another case, this one involving the Native Amercan Church, which uses the hallucinogenic drug peyote in its ritual, it was claimed that the Navaho tribal council was denying freedom of religion to the members of this federally recognized religion by prohibiting the use of peyote on the Navaho reservation. The members of this church sued for their right to worship freely under the First and Fourteenth Amendments. In 1959 the Tenth Circuit Court of Appeals, all three justice concurring, found that it did not have jurisdiction.

Some states have also refused to intervene in Indian civil rights disputes. In 1974 the Onondaga tribal council in New York passed a law which ordered eviction from the reservation of any mixed blood families, where either the husband or wife was not of Indian ancestry. Their properties, including their homes, were to be turned over to the council. Some two dozen families were involved. When they refused to move, as some of them did, they were driven from their homes by tribal policemen. Appeals for help to local state authorities went unheeded. The state police turned the calls over to the sheriff's office. The sheriff's office termed it a "hot potato," and refused to intercede. The evacuations proceeded, with some of the evacuees burning their own houses rather than see them fall into the hands of the council members.

The most recent publicized case involving tribal authority versus an individual Indian's civil rights was decided in May, 1978 by the Supreme Court. This case, stemming from the Indian Civil Rights Act passed by Congress in 1968, which generally applied the civil rights of other Americans to Indian reservations, seemed to fall into a different category from those brought under the federal Constitution. Here was a case, after all, arising under a Congressional enactment. The plaintiff, Mrs. Julia Martinez, a Santa Clara Pueblo Indian, was suing the tribal council because it was denying her children the right to vote in tribal elections, to a share of federal funds granted to the tribe, or to inherit her property when she died. The council had passed a law in 1939 prohibiting tribal membership, or rights of inheritance, to the children of any female Santa Clara Indians who married outside the tribe. Male members would not be penalized if they did the same thing. Mrs. Martinez had married a Navaho. The children of their marriage were not considered members of the tribe, and therefore not entitled to any tribal benefits. Under the Indian Civil Rights Act of 1968, which ordered tribal governments to implement the due process clause of the 14th Amendment, Mrs. Martinez was suing for equal treatment with male Santa Clara Indians.

Mrs. Martinez seemed to have a good case, but she lost. The Supreme Court, only Byron White dissenting, denied that it had jurisdiction, since Congress had not specifically granted it jurisdiction when it passed the bill. In writing the majority opinion Thurgood Marshall said that to allow such suits as that of Mrs.Martinez, "would be at odds with the Congressional goal of protecting tribal self-goverment." The Indian Civil Rights Act of 1968, therefore, seems to depend on the good will and cooperation of the tribal councils if it is to be effective.

IN GENERAL, reservation Indians clearly approve these decisions. There have been no significant Indian voices raised in favor of outside interference on reservations to protect the civil rights of Indians. On the contrary, tribal members have been fighting harder than ever to maintain the unique Indian position within the United States, a position enjoyed by no other religious, ethnic, or racial group in the country. Only the Indians, on their reservations, have such special rights of self-government. They may not be true nations, but they have come closer to that status than any other group in American society.

At the moment, however, there are a number of bills before Congress that would, if passed, reduce Indian control over their reservations. One would restrict tribal rights to waters flowing through their reservations. Another would take away the extraordinary fishing rights of Indians in the state of Washington, granted to them under 19th century treaties, and confirmed more recently by the courts. Another would terminate the federal connection with the reservations. These bills inspired the recent "Longest Walk," a five-month trek by several hundred Indians, joined by hundreds of others along the way, from San Francisco to Washington, D.C. One of the objectives of this walk was to protest and defeat these bills. The Indians met with Vice President Mondale, who greeted them cordially, alternately booed and cheered Senator Kennedy, and almost conferred with President Carter.

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Even without the effort of the Longest Walk, however, it seems highly unlikely that any of these bills will ever come to a vote, much less pass. Congress,like the courts and states, is wary of arousing the Indian world and the non-Indian supporters of that world. Indian reservations, with all their unique characteristics, with their good things and their bad, will continue on into the indefinite future. Despite some anti-Indian "backlash" against some of the violent Indian actions in recent years, such as the occupation of Alcatraz, the storming and pillaging of the B.I.A. office in Washington, and the siege at Wounded Knee in South Dakota, there are no serious threats to Indian self-determination appearing at this time.

The "vanishing Indian," the stereotype of the late 19th century, is far from vanishing. Reservation home rule is more solidly established than ever, Indian self-esteem is on the rise, and the Indian world is in ferment. Where this will lead is anybody's guess, but at this writing the Indian's future, if not bright, certainly seems brightening. Alexander Pope's "poor Indian! whose untutor'd mind/Sees God in clouds, or hears him in the wind," has become a sophisticated and successful practitioner of the art of survival in the modern world.

Screen

PUNK CROCKS

'THE WARRIORS' & 'HARDCORE'

THE WARRIORS begins with the scary premise that the street gangs are banding together to take over the whole city. At a midnight convention of all the gangs that has been called at a park in the Bronx, the leader of New York's largest gang looks out over the sea of delegates, each dressed in his own war colors, and intones, "There are only 20,000 cops in this city. There are 60,000 of us, *if* we join forces." The fact that someone blows this dude away and the meeting breaks up in anarchy doesn't do much to ease the tension either. Now all these gangs go on a city-wide rampage as each scrambles to get back to its home turf. This is the sort of thing that city dwellers all over America have been dreading since the fifties—a final, cataclysmic eruption of delinquency into open warfare, a night of the long switchblades when the young muggers, junkies, rapists and thrill-killers would just gang up on the rest of us once and for all.

In the opening passages, as gangs from all over come up to the Bronx on the subway, *The Warriors* plays upon our expectations of it. Middle-aged people look around in silent dread as a gang spills onto a D train. In an underpass somewhere else in the subway system, a street soldier peels off from another gang to get a few jollies by backing a woman up against a wall momentarily and menacing her. Even before the movie begins, we are already waiting for this sort of familiar, low-grade terrorism to flare up into a total, inescapable violence. Yet this, strangely, never happens. The stray subway riders found here and there in *The Warriors'* opening scenes are almost the only civilians we see in the whole movie. If the film really is scary, it is not because it previews some apocalypse yet to come, but because the street gangs already seem to have won a war of attrition in the city we see here.

As the Brooklyn gang referred to in the film's title tries to get back to its home turf of Coney Island, the city streets and subway stations they travel through are completely deserted. It's as if the whole city had become what the South Bronx is now—an area abandoned to the gangs, a ghost town where there's nobody left except them. This vision of the city may be frightening, too, but it takes the scare out of the gangs themselves. Aside from an occasional keystone cop, the Warriors only run into members of other street gangs on their way home. And even then, the stylized, kung-fu fighting, often in slow motion, makes urban violence seem a very remote, abstract danger. After awhile *The Warriors* is like a gangster movie, where hoodlums usually spend all their energy killing one another. This film doesn't terrify us with the presence of street gangs in our midst any more than a gangster movie makes us afraid of the Mafia.

Why this movie has caused so much trouble is hard to understand. It has produced rumbles in a number of cities, including New York, and at least one killing is attributed to it in Los Angeles. For the most part, though, these disturbances have at least begun in a spirit true to the movie itself: as a battle between rival gangs. While we may find unnerving what we read in the papers about the effect *The Warriors* is having, the movie really does its best to allay our fears about these kids. Not only do they "stick to their own kind," as the song says in *West Side Story*, but their kind is a pretty decent lot. (Twenty years ago your "kind" was your own ethnic group, but now it is all disaffected youth together. The gangs in this film each have a careful—too careful—racial balance, as if the ideal of the Melting Pot had finally been realized.) As in *West Side Story*, so here, we get good vibes from the delinquents. The film's director, Walter Hill, likes ultra-cool detached heroes, as his last film, *The Driver*, demonstrated. The nameless central character in *The Warriors* (Tom Waits) has some of the

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same qualities; but in this film, of all places, the rough edges are taken off. A little high-toned sentiment is allowed to creep into the character, particularly in his relationship with his moll (Dorsey Wright).

There is that one punk who shoots the speaker at the convention in the Bronx. But he's the only rotten apple in the proverbial barrel. The other gang members we see here are sometimes wild, but more often just stupid; and they are always loyal to each other. More than that, they are all basically fair-minded and moral. Even if their presence does empty the city of its other inhabitants, we can take solace in the fact that civilization itself will survive among them. The movie ends back at Coney Island on the Warriors' home turf—on the beach. The allusion to the fifties film of that title about a world slowly being depopulated by fall-out is intentional I'm sure. But the reference is a bit confusing. At the beginning of *The Warriors* we thought that these kids were supposed to be the fall-out itself, the Bomb that was ticking and ready to explode. Now it turns out that they are Armageddon's last and noblest survivors instead.

Hardcore is a quickie about runaways and the sub-culture of pornography. It was written and directed by Paul Schrader, who seems to be dedicating himself to taking us on tour of all the undergrounds and underworlds there are in America. He began when he wrote the screenplay for Martin Scorsese's *Taxi Driver*, then continued with his own first film, *Blue Collar*, about working-class life and union racketeering. Now he's filling in yet another of the blind spots in our perception of our society, showing us some more of those modern casbahs where we shudder to think, and can scarcely imagine, what goes on. The trouble with *Hardcore* is that Schrader is so anxious to prove he *can* imagine, he doesn't really take the time to do anything else. The whole movie is preoccupied with getting us into the dens of iniquity, showing us how the porn business works, giving us glimpses of dirty movies, etc. This is all just a way of showing off on Schrader's part. He's bragging about how vivid his cynicism is, how tough he is because he knows all this stuff.

There's a slimy detective (Peter Boyle) who's hired near the beginning of *Hardcore* to find the runaway daughter of a God-fearing man from Minnesota named Van Dorn (George C. Scott). At one point the detective brings Van Dorn an 8mm porn film starring his daughter and forces him to watch it. The detective also scolds Van Dorn self-righteously. If he wants to find his daughter, the detective says, he's got to see what kind of world we're living in. I suspect Schrader fancies himself as being rather like this detective, someone able to face the world knowing how rotten it is—someone who's self-appointed mission is to make the rest of us face it. It's no wonder the detective turns out to be, despite all his sins and weaknesses, the real hero of *Hardcore*. Van Dorn finally finds his daughter on his own, but it's the detective who kills the pimp that has been exploiting her.

What Schrader does not do a good *exposé* of is the lives of his characters. He seems to know nothing about them, however much he may know about pornography. Van Dorn is an especially confusing character. In the one or two scenes of his life back in Minnesota, he comes off as more liberal-minded and at ease than his friends, the kind of man who makes a loving, trusting parent. But then a teenage prostitute he meets guesses at once that his wife ran off because he has sexual problems. If a girl like this can see through him so easily, how come we can't? The reason is that Schrader doesn't know how to depict Van Dorn's weaknesses, his human complexity. The only inadequacy we see is when Van Dorn tries to explain his Reform Dutch faith to this girl. It sounds like a recorded message, as if Van Dorn were only an ideological position to Schrader, not a person.

When Van Dorn does find his daughter, it turns out that she was not kidnapped and addicted to drugs as we have been led to suspect. She ran away because this man who has not only humbled but humiliated himself to find her was in fact a horrible parent. She has become so depraved that she now lives with a man who commits his own murders in the snuff films he produces—a man she claims loves her where her father never did. Yet when Van Dorn blubbers a few pieties to her about having been unable to express his love and being sorry, she accepts his apology and immediately goes back to Minnesota with him. This conclusion to the film suggests that, for all his supposed toughness, Schrader is really as naive about human beings as the most frightened, unstable teenage hooker he can imagine.

COLIN L. WESTERBECK, JR.

Stage

SHOW AND TELL

AN ELEPHANT FOR ALL SEASONS

In 1975 Bernard Pomerance did an adaptation of Bertolt Brecht's *A Man's Man* for the Hampstead Theatre in London. I have not had a chance to see or to read the Pomerance version, but I assume that whatever liberties he took with the Brecht play (it is a script that is used to having liberties taken), he retained those metamorphoses that provided its structure and fed its theme, that illustrated Brecht's contention that a man is no more than the product of his society's expectations. I assume, too, that he kept the scene in which two men and an army blanket become an elephant because there is an immediate market for such a beast. When Pomerance turned to a different kind of elephant man—John Merrick, whose freakish deformation earned him that nickname late in the nineteenth century—he not only wrote a modified Brechtian play (twenty-one scenes, each bearing its identifying label), but he created, in *The Elephant Man*, another play of metamorphoses.

First metamorphosis. Philip Anglim is a slight, conventionally good-looking actor who in no way resembles the unfortu-

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nate John Merrick. No actor could, without ludicrous makeup more appropriate to a *Star Wars* saloon than a serious play. Yet, as Dr. Frederick Treves (Kevin Conway) lectures us, using actual photographs of the elephant man, Anglim's right arm appears to elongate, becoming heavy and useless, his body twists, his legs grow clumpish, difficult to manage. In a marvelous extension of the conventional collusion of actor and audience which allows a performer to become a character, Anglim turns into the horribly deformed Merrick. Yet his face, unlike Merrick's, remains unchanged, so that the audience can at once perceive the man and the freak.

Second metamorphosis. Merrick, who in the early sections of the play is only an object of curiosity (idle to freak-show fanciers, scientific to Treves), becomes a normal person of sorts. After a mob almost kills him, he finds shelter with Treves at London Hospital, which becomes his *home* (the word is spoken as though it were in quotation marks) after a subscription, raised through *The Times*, proves that, as the scene title puts it, "the English public will pay for him to be like us." This is the segment of the English public more genteel than the mob who would have destroyed him to erase the difference.

Third metamorphosis. No longer considered a cretin, Merrick develops his taste for art and literature, allows his imagination to flourish, even displays his talent for irony. After winning the interest and the affection of the celebrated Mrs. Kendal, whose presence allows Pomerance some attractive lines on role-playing, Merrick becomes the newest fashion, visited, admired, befriended (condescended to) by the elegant world, from Princess Alexandra down. For his new friends, Merrick's ugliness is a value, a barrier which keeps them from seeing him as an individual, which allows them to find in him the qualities that they think or wish were theirs. This is presented in very specific speeches in which each of the characters describes Merrick in a line that ends "like me."

Fourth metamorphosis. Frederick Treves is presented as an intelligent, compassionate man of science, a product of both the rationality and the missionary zeal of his century. He rescues Merrick from destruction but forces him to fit his freakishness (*i.e.*, difference) into a paradigm of nineteenth-century propriety. He insists that Merrick repeat after him, "Rules make us happy. They are for our own good." By the end of the play, Treves doubts his work, his God, his society, his whole existence. When one thinks of the real Sir Frederick Treves, placidly churning out travel essays toward the end of his life, Pomerance's Treves becomes as obvious an invention as his Merrick, a product of the same impulse that created the tortured psychiatrist of *Equus*.

As my own metamorphosis (the transformation of a play into a series of propositions) suggests, *The Elephant Man* is a fascinating drama full of provocative ideas. Even so, I have some difficulty with it. For one thing, it appears to be two plays, one dramatic, one didactic. In so far as *The Elephant Man* is the story of John Merrick, it is the account of a man of great sensitivity brought to the threshold of life and then forced to turn back. Pomerance uses sex as the final barrier, apparently answering, yes, to Merrick's question: does a man have to have a woman to be a man? When Treves interrupts Mrs. Kendal as she shows Merrick what a naked woman looks like, his outrage is a display of his own limitations although Merrick takes it as a definition of his. We are warned that Merrick will die shortly, that his heart cannot bear the weight of his grotesque body, so that his death when it comes will raise no questions, will be recognized as suicide only by the audience. Early in the act Merrick tells Mrs. Kendal that he must sleep sitting up, that if he lies down as other people do he will strangle. Now, at the invitation of a fantasy figurer, another freak borrowed from the first act, he does lie down and he dies. Shortly before, he puts the tower on the church model he has been constructing—a mock building made by a mock man—and says, "It's finished." Echoes carry us back to the end of the first act in which he explains to Mrs. Kendal that Romeo had to kill himself because his illusion came to an end.

The difficulty with Merrick's story in dramatic terms is that it reaches its emotional high point in the first act when Merrick meets Mrs. Kendal—a beautifully acted scene between Anglim and Carole Shelley—and that much of his later distress is underlined by too obvious explanation. Merrick's life and death are not left to work as dramatic metaphor; they become part of an overt lesson plan which seems—at least that is the way I read the Treves character—to want to score particular points against society. The play is in danger of becoming a lecture like the one that Treves dreams at the end of the play. Brecht is not a bad playwright for a man to get under his skin, but even with Brecht I sometimes want to say, don't tell me, show me. Still, *The Elephant Man*'s telling takes place in the context of some highly effective showing.

GERALD WEALES

Leo Dangel

Plowing at Full Moon

The air, cold,
The hills roll up like unbroken
Swells beneath the tractor
The plow turning a wake
Wet and black

A column of fire gusts
Up from the exhaust, the roar
Breaks through
Finally to pure silence felt
In the hands and shoulder blades.

I am with the earth and the dark,
Alone. And work is being done.
I'll go home and dream of a horse
Bowing over still water in a cedar tank,
Drinking the moon

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Modern culture & fascism

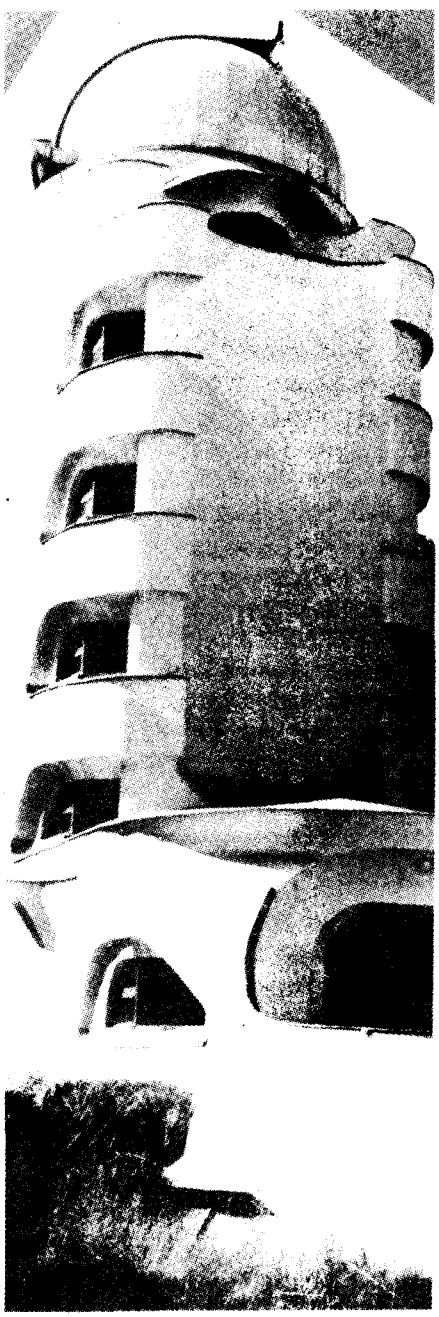
LYNN GARAFOLA

WITH "The Twenties Meets the Seventies," London joins major European centers in hosting a show about a crucial period of Europe's cultural past. At the Pompidou Center, the huge emporium of the arts on the former site of Les Halles in the French capital, "Paris/Berlin 1900-1933," has been attracting crowds and critical attention since it opened last spring. Less publicized but more innovative, "Turin Between the Wars" offers visitors a panorama of political, social, and cultural change in Italy's automobile capital from the end of World War I to 1939.

It was during these decades that Europe shed the legacy of the nineteenth century, the arts took on their distinctly modern look, and technology transformed the patterns of everyday life. But if the time is significant because of the flowering of artistic imagination and achievement, it was equally the era that gave birth to totalitarianism. Behind Europe's renewed interest in Weimar and its preceding decades lies a preoccupation with the origins and culture of Fascism.

Certainly, Europe holds no monopoly on this fascination. In the United States, popular biographies of Hitler are paperback best sellers, and a trade in Nazi insignia flourishes. By contrast to the U.S., however, where interest in Fascism centers largely on the Right, Europe's obsession comes from critical sectors of its intellectual Left.

The shows that have dotted the cultural landscape of Europe in recent months mark not only a new stage in reinterpreting the Fascist past, but are the most recent signs of the preoccupation with Fascism that has surfaced among intellectuals of the Left in the last decade. In the cinema one can date its emergence to Marcel Ophuls's 1969 documentry *The Sorrow and the Pity* in which the filmmaker explored the seeds of Fascism within French society and culture. Luchino Visconti's *The Damned*, released the following year, established the ideological parameters for *The Conformist, 1900*, and a score of other films. The three exhibits share with these films a vision of Fascism not only as a political phenomenon, but as a cultural system ultimately capable of controlling man's internal and external environment. Equally, they afford a glimpse of the mood of today's European intellectuals and the pessimism with which they enter the eighties.



"PARIS/BERLIN 1900-1933," by far the most ambitious of the three shows, explores the connections and contrasts of German and French culture of the period by charting friendships and personal contacts and juxtaposing contemporary artistic movements. In the section devoted to pre-War painting, we learn that Matisse went to Germany three times between 1908 and 1910, that he counted a number of German students among his circle of friends, and that several of his works were bought by German collector Karl E. Osthaus. But despite the evidence of contacts, in the remarkable collection of paintings assembled for the period, the contrasts in the works are far more striking than their similarities. From a common starting point in color experimentation, the Fauve and Bleu Reiter painters achieved startlingly different results.

Literature holds a special place in the show as a point of contact. Alsace-Lorraine is singled out for the contribution of native sons such as Hans Arp and Rene Schickele to the modernist movement and as a sign of political cooperation and cultural exchange. Rilke's books of poetry written in French attest to long residence in the French capital while German translations of major symbolist works and correspondence show the web of personal and professional ties between men of letters in the two countries before the War. But if the generation of Stefan

LYNN GARAFOLA *is an American writer spending a year in London doing research on a book.*

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George, Thomas Mann and Hugo von Hofmannsthal was fully conversant with French culture, interest in German culture was not reciprocated. French xenophobia found expression in reviews such as *L'Effort* which decried German and other foreign influences in the arts. As in the case of painting, the show says more about what separates the German and French literary worlds of the time than what brings them together.

The limitations of a comparative approach restricted to the level of high culture become increasingly evident in the post-War sections. Despite the flurry of intellectual exchange found in letters, translations and reviews of the period, cultural patterns in the two countries followed totally divergent courses. Nowhere is this clearer than in the juxtaposition of Dada and Expressionism where personal links certainly existed, and where in literature, at least, one can point to similar experiments in language and typography. What differs is the larger cultural and political framework. The outrage that marks the work of Kathe Kollwitz and George Grosz is rooted,not in the formal nihilism of Dada's playful, even frivolous, experimentation, but in the political despair and economic collapse that engulfed Germany in the '20s.

The show is most successful in illustrating the emergence of "modernity" as an identifiable style that was a byproduct of Germany's rapid industrialization after the turn of the century. In electric kettles and fans, architectural designs and factory blueprints, the functional concepts of modern design pioneered by the Deutsche Werkbund (drawing on the talents of people like Peter Behrens, Walter Gropius and Henry Van de Velde) are followed from experiments before the War to their flowering in the Bauhaus. A prototype of today's efficiency kitchen, designs for planned communities, blueprints for model homes, glassware and furniture show the transfer and growing capacity of industrial technology to influence middle-class domestic life.

DESPITE passing reference to expressionist and Bauhaus theater experiments, the performing arts receive short shrift. This is the strong point (with the exception of dance) of "London/Berlin: The Seventies Meets the Twenties," a season of exhibitions, concerts, theater, films and lectures, sponsored by the Goethe Institute and British Arts Council.

The organizers insist that "The Seventies Meets the Twenties" is more than a catalogue of the twenties, that its aim is to explore the impact and influence of that period through fifty years to today. However, despite the welcome revival of Toller's *Hoppla! We Are Alive!*, an experiment in total theater originally staged by Piscator in 1927, and the screening of several rare films with live accompaniment and hand-out translations, the program suffers from a lack of focus. A case in point is the dubious inclusion of Stravinsky—ironically cited by Cocteau in 1914 as exemplifying the superiority of Franco-Russian music over German—on a program devoted to German music. More seriously, "The Seventies Meets the Twenties" suggests only superficially the broader social and political culture that nurtured and decisively marked the period's artistic life.

THIS, together with an imaginative use of traditional and non-traditional locales, is the strong point of "Turin Between the Wars." In this very successful attempt to chart the rise of Fascism and its impact on everyday life, Fascism emerges as the force wrenching Italy into the modern world. Like the other exhibits, "Turin Between the Wars" reflects a broad notion of culture. Unlike them, however, it grapples with the thorny problem of recreating the social and cultural reality of people who leave few historical records from which to reconstruct their lives.

The exhibition is divided into two parts, the larger in the city's municipal museum and a satellite show in a public elementary school in the Borgo San Paolo, Turin's oldest working-class neighborhood. At the turn of the century, the Borgo San Paolo retained its rural character. Vegetables grew in kitchen gardens, chickens and cows roamed the unpaved streets. On the eve of World War I, its craftsmen went to work in the mechanical trades that had established themselves in the city. After the War, entire families provided the unskilled labor of the rapidly expanding automobile industry. To show how these changes affected life in the district, a group of leftist historians have compiled an oral history of the community that traces changes in patterns of family life, work, socializing, child raising and politics.

The picture that emerges from the photographs, documents and family albums of people from the Borgo is one of a society in transition. In the audio-visual shows, mini-documentaries of the exhibit's central themes, residents, often in a mixture of Piedmontese dialect and Italian, recall the long working hours in the city's early factories, the first streetcars that ran from downtown to the still rural district, seaside outings organized by the Fascists for poor families. A measure of the exhibit's success in capturing the

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imagination of today's Borgo population can be gauged by the numerous mementos donated by visitors after it opened, now displayed in the corridors outside the main halls.

If the imaginative use of "history from the bottom up" gives a new dimension to the culture of Fascism, the exhibit at the museum proper explores the Fascists' development of mass communication as an instrument to mold popular consciousness. The organizing theme here is Gramsci's notion of ideological hegemony. A fine collection of posters indicates the transformation of a late nineteenth-century art form into a tool serving advertising and political ends. Futurist images identify Fiat and Lancia with the spirit of modernity—youth, speed and a streamlined sophistication—while reflecting the growing importance of consumerism and corporate ideology in shaping the cultural landscape. Political rallies, and in particular, the wireless, became powerful ideological weapons in the hands of the Fascists.

IT IS NO accident that the current wave of interest in Fascism dates from the aftermath of 1968. As in the U.S., 1968 split European society down the middle. Unlike the U.S., however, student riots touched off industrial violence threatening economic as well as political stability. The Communist vote grew perceptibly at every election; the "new" or "ultra-left" not only forced through major educational reforms but made inroads among industrial workers.

To American eyes, the French and Italian Left by the mid-seventies appeared on the verge of assuming power. In fact, the Left today finds itself in disarray. The student-worker alliance has broken down; a backlash movement has begun dismantling educational reforms; unemployment is rife among students and young people. In Italy, moreover, urban violence and terrorism have taken a heavy toll. For the survivors of 1968, particularly among intellectuals, disillusionment and pessimism are the keynotes of the present political and social landscape.

Today's obsession with Fascism expresses what many privately fear, that Italy is reliving Weimar in the twenties. But moral despair is not the only note sounded by the Left. There is equally a fear of the way technology was used to create the consciousness of Fascism. This is a prevailing theme of the Paris and Turin exhibitions. Throughout Europe government control of the mass media is the rule rather than the exception, but unlike the twenties, when the media were in the first stages of development, the technology necessary for the creation of "hegemony" today is fully developed.

Similarly, the emphasis on design in the exhibits reflects the relationship between what the twenties defined as "modernity" and today's concept of "contemporary living." It is not without significance that Italy has inherited the mantle of the Bauhaus in creating domestic environments, in pioneering the use of new materials for decorative yet functional objects, and in creating stark and depersonalized conceptualizations of space, color and arrangement. If the Bauhaus was a symbol of "modernization" to the twenties, "contemporary style" provides the iconography for today's middle class that defines itself as "modern" more in terms of lifestyle than social relations.

For the European Left the Weimar cycle seems to be repeating itself. The three exhibits are reflections of the trepidation with which Europe awaits the eighties.

Books: WILD KNIGHTS & HOLY WARS

OF ALL the works and ways of the medieval world, the crusades perhaps best represent the virtues and failings of its exuberant spirit. They combined idealism with bigotry, self-sacrifice with selfishness, boundless faith with demeaning cynicism. Once thought to be the central events of medieval history, the crusades are now more often regarded as derivative, even inconsequential incidents in the period's basic economic, cultural and spiritual development. But they still retain an irreducible fascination, both for professional historians, and for the lay and literate public.

Both the books here under review are written by professional scholars. Carl Erdmann was a German historian who

THE ORIGIN OF THE IDEA OF CRUSADE

Carl Erdmann

Trans. Marshall W. Baldwin and Walter Goffart

Princeton University, $28.50, 446 pp.

THE FOURTH CRUSADE:

The Conquest of Constantinople, 1201-1204

Donald E. Queller

University of Pennsylvania, $17, 248 pp.

David Herlihy

published his book in 1935, when he was 37 years old. He died in 1945; the Nazi regime in Germany, the Second World War, and his own ill health cut short a career of extraordinary promise. Almost at once his book was recognized to be a classic in medieval history, particularly in that genre which German historians call *Geistesgeschichte,* the history of spirit and thought. We owe it to two American scholars that this work now appears in English translation. Marshall Baldwin, who taught at New York University, began the translation, provided an introduction, embellished the text with supplementary footnotes, and updated the bibliography. His death in 1975 prevented him from releasing the text to the publishers. Walter Goffart, now professor of history at the University of Toronto, finished the taskof editing and correcting the manuscript. Both scholars de-

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serve credit for this exemplary translation, all the more valuable for the enlarged notes and bibliography.

Erdmann begins by posing a paradox. How could the Christian Church, which had traditionally looked askance at war and bloodletting, accept, in the European West, from the eleventh century, the notion of a "holy war"? How could the church come to perceive violence as a meritorious act? In a richly informed analysis, Erdmann traces the emergence of the idea of a "just war"; he reviews too the sanctions, early given by the church, to emperors and kings, to defend the Christian commonwealth against aggressive heathens. The novelty of the eleventh century in regard to the ethics of warfare was twofold. In the great reform movement, which modern historians now label as Gregorian (after Pope Gregory VII), the Church sought to penetrate and sanctify the lay world, to saturate it with Christian values. But the knights, professional warriors, represented a special problem. Could their work too be rendered holy? Ignoring kings, the reformers now sought to transform the knights and redirect their energies in beneficial paths. Through the movements known as the Peace of God and the Truce of God, these warriors were urged to respect the peace of certain days, of certain places (churches and sanctuaries) and of certain persons (clerics, women, peasants, merchants). Moreover, certain situations—notably the preservation of the peace of Christians against the wicked and the heathen who would shatter it—admitted the meritorious use of violence. Erdmann traces this fundamental and ominous shift in attitudes toward violence not only on the level of texts, but also in the language of symbols, particularly in the use of holy banners in battle, and of battle cries, which evoked amid slaughter the name of God and his saints.

The next step forward was the granting of assured spiritual pay to fighters in approved causes—of indulgences, a kind of substitute penance. They were first blandished to recruit warriors, who would do battle against the Saracens in Spain. This aggressive spirit finds even broader application at the hands of Gregory VII, the true architect, according to Erdmann, of the idea of holy war. Locked in a titanic struggle to reform the church, confronting the hostility of the chief lay magistrate of Christendom (Emperor Henry IV), bereft of means of material coercion, Gregory openly sought to recruit warriors in the service of the papacy. The *militia sancti Petri*, or military service to St. Peter, surely conveyed spiritual benefits. Popular ideas of fighting for God were at the same time also stirring Europeans, and led to outbursts—such as attacks upon indigenous Jews—which the Church discountenanced but could not control. All these currents blended in the policies of Pope Urban II. More moderate than Gregory, he still summoned the knights to Europe to make war on the Muslims in 1095. Erdmann believes that the rescue of the eastern church and empire, rather than the liberation of the Holy Places in Palestine, was his chief motivation. At all events, he assured the knights that God truly willed this holy crusade.

> *To early Christians the idea of a holy war encouraged by their religion would have seemed absurd. They knew only profane wars, conducted for the good of the state, and doubted the propriety of participating in them. The question early Christianity posed was not whether religion was a valid basis for war, but whether it was possible for a Christian to fight at all.*
>
> —The Origin of the Idea of Crusade

Erdmann's book deserves the stature it has held. Its failing is that his analysis of intellectual shifts seems often too abstract, too disembodied. Do intellectual revolutions ever derive from intellectual reasons exclusively? We are shown what is happening, but are not introduced to all the forces, which on numerous levels of society were pushing Church and society to this stunning reevaluation of warfare. In fairness to Erdmann, it should be stated that subsequent research has since widened our knowledge and

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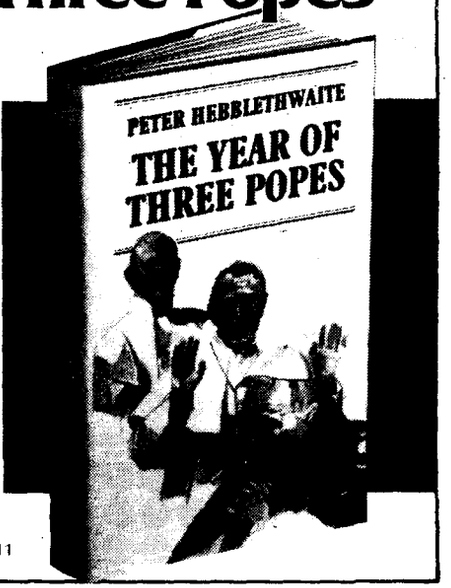

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appreciation of the extraordinary eleventh century. Erdmann was one of the first to show, if not entirely to explore, the dimensions of the social and cultural changes it witnessed.

Donald Queller's study of the Fourth Crusade is a work of a much different sort. Queller is at present a professor of history at the University of Illinois. He became interested in the Fourth Crusade for reasons of the controversies that have surrounded it since its origins. Proclaimed by Pope Innocent III in 1198, organized in 1200-01, the crusade with Venetian connivance first sacked the Christian city of Zara in Dalmatia, and then the capital of a Christian empire, Constantinople itself, in 1204. In Queller's views, bad planning (the leaders contracted with the Venetians for the passage of many more soldiers than actually appeared), and consequent indebtedness, made these crusaders desperate opportunists, who seized upon every occasion for pay or plunder. Queller makes full and judicious use of sources, deftly reviews learned opinions, and traces with detail and care the course of the unfortunate enterprise. His concern is almost exclusively with narration. The work comes close to becoming an apology for the crusaders, who did no more, in Queller's view, than follow the unexpected swings of fortune. As a narrative, the book is excellent; as an implied apology, it fails.

Carl Erdmann effectively shows how far the eleventh-century sanctification of warfare departed from the judgment of early Christianity, that recourse to the sword was always suspect. Unwittingly, Donald Queller illustrates the scandal and shame which this pretense of fighting for God ultimately engendered.

Yugoslavia's Tito-talitarianism

THE YUGOSLAVS

Dusko Doder

Random House, $10, 246 pp.

Matthew Mestrovic

DURING a ninety-minute television monologue on his youth, Yugoslavia's President Tito suddenly recalled that while serving as a Red Guard in the Bolshevik Revolution he thought of emigrating to the U.S. "And you know," he added with supreme confidence, "had I done it, I would have become a millionaire." He has, even without going to America. Though a "Communist" he lives in unrivaled splendor.

Dusko Doder tries to "look at Yugoslavia in terms of culture and civilization, not just in terms of government." But, of course, it is impossible to understand the Yugoslavs independently of the man who has shaped their destiny for so long and who plans to continue ruling them, even though he is 86.

At one point during this year's Yugoslav Communist congress in Belgrade, Tito became so charged by thunderous applause that he pledged to stay in power another fifty years. His person has long since become legend. So, sometimes, Yugoslavs and others as well, are inclined to believe that Tito like Wonder Woman will never die.

Doder, who for three years served as the *Washington Post*'s man in Belgrade, thinks otherwise. He believes that Tito's "long tenure—and uncertainty whether he will live another five months or five years—has become the cause of his regime's stagnation." For years now he has impeded an evolution of the regime in step with the tremendous social and economic changes which have taken place under his tenure. When Tito launched his Partisan war in 1941, Yugoslavia was 80 percent peasant. Now most of the people live in cities, work in factories and service industries, drive cars and watch Western television programs.

Today Yugoslavia has a large and affluent New Class (as Djilas calls it) of Communist bureaucrats, army officers, intellectuals, artists and managers. Somehow they have acquired plush apartments, antiques, weekend houses on the Adriatic, Mercedes and Peugeots, and send their children to universities abroad. At the same time a million Yugoslavs have been forced to seek employment in Western Europe, and hundreds of thousands more remain unemployed in Yugoslavia. All who could seem to have taken the standard Communist advice, "comrade, make the best of it."

The question, of course, is how long disaffection over chronic unemployment, national discrimination, and extreme economic inequality can be controlled by jailing dissidents. How long can Yugoslavia withstand external pressure by Bulgaria and Albania, who claim large chunks of Yugoslav territory? How long can Yugoslavia continue its balancing act between East and West? Tito has done it with extraordinary success. But can anyone else do it? Most Yugoslavs doubt it. And for this reason even anti-Communists keep praying for Tito's continued survival.

Doder, who was born in Yugoslavia but came to the U.S. as an adolescent, thinks that Tito is himself to blame for much of the uncertainty about the future. He has systematically eliminated from positions of power his most capable and intelligent associates. Djilas was ousted in 1954, secret police chief Rankovic went in 1966. In 1971, Tito purged the young and popular Croatian party leader Tripalo, and the next year the brilliant and erudite Serbian Communist leader Nikezic was retired on charges of "liberalism."

The only ones who hang on are cautious, self-effacing, obedient yes-men. One was Kardelj, a former Slovene grade

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school teacher who spent his time writing obscure Marxist volumes and recently died. He was supposed to be Tito's successor as President. Another is the Croat Vladimir Bakaric, now in his late '60s, who owes his long political survival to the fact that he is much of the time away convalescing from real and feigned ailments.

Two other possible contenders for Tito's crown are Defense Minister Ljubicic, a Serb, who has passed the mandatory retirement age, and a Slovene, Stane Dolenc, who is younger and serves as the party secretary. But according to Doder, Dolenc's skeleton in the closet is the fact that as a young man he joined the Hitler youth, which is hardly appropriate for a Yugoslav leader. And, anyway, if Tito lives another few years, all of them may be relegated to the dustbin of history.

Doder seeks answers to Yugoslavia's bewildering and complex problems in the peoples' national ethos, their history and their character. He has done a splendid job, even though he admits that no one can predict with certainty Yugoslavia's future.

His personal belief—or perhaps hope—is that the Yugoslavs have become so much a part of the West in their life style and aspirations that they will stubbornly resist any pressure, external or internal, to bring them back into Moscow's orbit. Doder makes a guarded bet that Yugoslavia will move towards greater democracy after Tito, and that Djilas, whom he much admires for his courage and intellect, will play an important part in this process. Let us hope that he is right for the sake of the Yugoslavs and of European peace.

And yet, in gloomier moments, one despairs of Yugoslavia's ability to govern itself in freedom. Only recently the Serbian novelist Dobrica Cosich, who was himself once a Communist Partisan but is now a dissident, put it this way: "What kind of a people are we, what kind of men are we? We are capable of sacrificing our lives in such great numbers for freedom only to remain without it in victory."

Stereotypes and scholarship

ANTI-JUDAISM IN CHRISTIAN THEOLOGY

Charlotte Klein

Translated by Edward Quinn

Fortress, $8.95, 176 pp.

John T. Pawlikowski

IN HIS BRIEF introduction to this volume Gregory Baum poses a basic question with bluntness: Must the Christian message forever remain anti-Jewish? Or is the negation of Jewish existence an ideological distortion of the truth of salvation which the church has been able to recognize only after the Holocaust? This is the fundamental issue raised by Dr. Klein in her new work. Her concern is rooted in many years of experience in the Christian/Jewish dialogue as a member of the Sisters of Sion and in a special way in her teaching experiences at the Open University in London and at Georgetown University in Washington. This book was in large part provoked by the attitudes displayed towards Judaism in her university classes, especially in course examinations. As she makes clear in chapter six of this volume, after lecturing for months on a new understanding of the Christian-Jewish relationship, she would inevitably discover students falling back into classical stereotypes of Judaism in their course assignments and examinations. This she attributes to the pervasive anti-Judaism in the continental theologians and biblical scholars whom these students used as resources. She contends that it is very difficult for an individual teacher to break such stereotypes when the overwhelming body of supposedly scientific scholarship continues to propagate them as gospel truth.

Her classroom experiences led the author to do a thorough investigation of the teachings on Judaism among those scholars whose writings most frequently served as resource materials for her students. This particular approach meant that she tends to focus heavily on the world of biblical scholarship, primarily on French and German authors, although a special chapter on the Anglo-American scene is included in this English edition of the volume. The title of the book is thus somewhat misleading since she treats only in passing a few of the major systematicians such as Karl Rahner and Paul Tillich and omits entirely others such as Hans Küng, Edward Schillebeeckx and Paul Van Buren who have at least begun to address the Christian-Jewish question in an initial way.

Dr. Klein divides her study into four thematic areas: How Christian biblical scholars view (1) "Late Judaism" and "Jewish Religious Community"; (2) "Law and Legalistic Piety in Judaism"; (3) the Pharisees and Scribes; and (4) Jewish Guilt in the Death of Jesus. The overwhelming impression which emerges from Dr. Klein's catalogue of authors' views on Judaism is that the community of biblical scholars, at least on the continent, has made very few advances in rethinking the Christian-Jewish relationship on a theological plane. The names who still dominate the scene in terms of biblical interpretation, Bultmann, Dibelius, Eduard Meyer, Emil Schurer, Benoit, Jeremias, Bornkamm, to name only a few, generally continue to depict the centuries between the Babylonian exile and the emergence of Christianity as a time of decadence, of internal and external decline for Judaism. It ceased to have any history properly speaking, its faith had become externalized and rigid, its God had distanced himself from the people

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and the prophetic message was forgotten. In short, Judaism misunderstood and failed in its real task. As a consequence, destruction visited the Jewish People as a just punishment. Dr. Klein attributes this scholarly distortion to the almost universal reliance by Christian biblical scholars on the Strack/Billebeck collection of materials for their knowledge of Judaism and the virtually total lack of acquaintance with serious Jewish scholarship on the period.

The situation in the Anglo-American world was found to be considerably better by Dr. Klein. Instead of exclusive dependence on Schurer and Strack/Billebeck, English-speaking scholars show a familiarity with the research of pioneering scholars such as R. Travers Herford and George F. Moore. The Anglo-American biblical community represented by such names as W.D. Davies, Norman Perrin, G.B. Caird, J.C. Fenton and others is less automatic in offering an unfavorable interpretation of Judaism than their German and French colleagues. They reveal a much more critical stance towards the New Testament's portrayal of Judaism. They likewise display a better knowledge of Jewish sources. And, even more importantly, one finds in their writings a consciousness of a living Jewish community to whom an injustice has been done by the deicide charge, during the Nazi period in particular. But traces of the traditional anti-Jewish stereotypes continue to plague some of the popular Anglo-American authors such as William Barclay.

Two especially disturbing trends in Christian biblical scholarship's image of Judaism emerge from Dr. Klein's study. They are the total misunderstanding of developments in Torah teaching during the Second Temple period and the continuation of the stereotypical picture of the Pharisees by most authors as rigid legalists, as an exclusivist sect that stood for everything Jesus condemned. According to the Christian scholars she examined, the Torah tradition had become mired in one-sided observance, no longer part of the covenant. Its continual observance could thus only lead to human perdition. The problem with Second Temple Judaism for these interpreters was that the Jewish people of this era began to rely on their own efforts in carrying out the commandments. They no longer were recipients of divine help and grace. As for the Pharisees, they are depicted as the archenemies of Jesus. This portrait is based almost exclusively on the description of them in the New Testament. But for Dr. Klein, to attempt to understand the Pharisees and scribes only through the eyes of the gospels is "the same thing—*mutatis mutandis*—as to put together an image of Jesus from the Talmudic sources and to regard this as historically true."

> *If we are ever to reach a fresh, unbiased approach to Judaism, what is absolutely necessary is a resolution on the part of Old and New Testament scholars to examine afresh their own attitudes and objectively to present Jewish teaching and the Jewish way of life between the two Testaments in the light of their study of the original Jewish sources and not at second hand. . . . To reconcile this presentation then with the statements of the gospel is a great but not impossible task of hermeneutics which is already being attempted by some individuals.*
>
> *—Anti-Judaism in Christian Theology*

Dr. Klein's volume clearly demonstrates that despite the progress made since II Vatican in the portrayal of Judaism in Christian education, basic theological issues have hardly been touched. Some Christian theologians such as Gregory Baum, Rosemary Ruether, Monika Hellwig and A. Roy Eckhardt have challenged fundamental Christian assumptions about Judaism on a theological level during the past decade. But the general conclusion of this study is that such theological rethinking has on the whole remained peripheral to Christian theological reflection and biblical scholarship.

Thus *Anti-Judaism in Christian Theology* makes an important contribution towards building support for such theological reformulation within the church. While its "catalogue" style of presenting viewpoints makes it a bit heavy reading at times, the overall conclusion of the study cannot be ignored by contemporary Christian scholars: the biblical scholarship that has shaped much of modern Christian theological reflection is seriously deficient in its understanding of the Second Temple period in Judaism that provided the context for the message of Jesus and the birth of Christianity. This situation requires immediate and profound correction. It is regrettable that the author failed to lay out at least in summary fashion her own understanding of what Christianity's theological perception of Judaism ought to be ideally. She claims her task is only to surface the problem. But some understanding of the perspective from which she judged the deficiencies of the scholars in question would have proven useful.

Along with the earlier study by Professor Eva Fleischner, *Judaism in German Christian Theology Since 1945*, this volume constitutes an important stepping-stone in the construction of a new Christian theological understanding of Judaism. It highlights the major problems with clarity and precision, even though it leaves to others the actual task of building a new framework.

In brief

A CATCH OF ANTI-LETTERS, *by Thomas Merton and Robert Lax, Sheed, Andrews and McMeel, $8.95, 116 pp.*

Although the private nature of their language makes these letters between Merton and Lax relatively inaccessible to the general reader, they cast some light on previously neglected aspects of Merton's personality: his wit, his gregariousness, his diverse friendships. Written between 1962 and 1967, as Lax began a self-imposed exile on the Greek islands of Patmos and Kalymnos and as Merton lived in semi-isolation at the Trappist monastery, Gethsemani, Kentucky, they contain reminiscences about Columbia University professors and friends they shared. Some of the educated foolishness is funny, as when Merton writes (August 12, 1966): "Here if you wish to make a

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hit with the clergy all you got to do is stand up and say God is dead and you will be an immediate success. Thus you never heard such a rush of people running and falling over each other to say God is dead. Norman Vincent Peale etc is all God is dead, and positive thinking killed him. But as for me I stick to that old home town religion: spell it out with opium. I am the people so why confuse the issue?" But aside from some witty comments about Mircea Eliade, Daniel Rops, and a Los Angeles evangelist named "Miss Velma," and a few poems, available elsewhere, the book is mostly just good humor between friends. Brother Patrick Hart provides some useful background information in the Foreword, but his notes are too sparse or perhaps just too limited in interest to shore up the thin text. MICHAEL TRUE

APOCALYPSE, *by Ernesto Cardenal, New Directions, $9, 78 pp.*

This book begins with a fable in free verse about Francis Drake and plunges directly into a garland of epigrams that read like deflated versions of Catullus. Bit by bit though, as we trudge through the slush of the initial doldrums, something more poignant and sinister breaks through: images of jails filled with political detainees, barbed wire, execution squads: Nicaragua under the Somoza dictatorship. The poems about Nicaragua are more tangible in scope, though occasionally burdened with self-pity. Cardenal is more at ease tackling the generosity of nature and the high quality of old rites—the idyllic time of the Mayan and pre-Aztec civilizations, the Old Indian way of life.

References to the "modern" age are underscored again and again in *Apocalypse* in an indictment against a society that has refused death and is therefore incapable of true rebirth. America is heading, in Trappist Cardenal's eyes, instead of towards the stars like the Mayas, towards artificial luminosity, hallucinogenic trips, inequality. Is violent revolution then the key to a new, purer species of men? Will the bloody overthrow of tyrants lead to a redressing of our grievances on earth? Cardenal wavers. His Christian heart leans toward a peaceful solution, an "inner" upheaval preceded by personal regeneration. At other times Che Guevara, Lenin, the Jacobins of the Paris Commune are seen by the poet as "heroes" who fought to shake torpidity off our lives.

How to be a good priest and a good Marxist in the face of injustice is a feat to be pursued with palpitations of the heart. Shall we then forego Cardenal's stark, conversational vision if it skips, like his heart, a beat or two? N.E. CONDINI

ANTICIPATORY DEMOCRACY, *People in the Politics of the Future, edited by Clement Bezold with an introduction by Alvin Toffler, Vintage, $4.95, 405 pp.*

This is an anthology whose whole is less than the sum of its parts. Rather than a serious investigation into the realm of futurology, this is really a collection of short, uneven essays barely tied together.

The purpose of the work is to explore "anticipatory democracy," a concept coined by Alvin Toffler to describe an alternative to present-day political systems, the which are apparently victims of "future shock." Anticipatory democracy would combine greater popular participation with enhanced future consciousness.

What is most curious about the volume is the extraordinary gap between

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the pretentiousness of anticipatory democracy's claims, as expounded by Toffler at the outset, and the rather benign, commonplace quality of the subsequent examples of anticipatory democracy in action. Like the prophets of old, Toffler offers us the chilling spectacle of the breakdown of western political institutions, only to console us with the prospect of a new Process which could be "the basis for a new activist movement that could radically alter American political life." Whatever the woes of our political systems, their survival should not be so cavalierly dismissed—and our putative salvation—anticipatory democracy—requires more explication. The case studies which deal with efforts at city planning, citizen participation, technology assessment, consumer activism, and worker participation seem far from revolutionary.

No one can deny that the future is important, that the western world is going through change, but Toffler offers us little counsel. This new St. Simon and his disciples are certainly not on the level of the old ones.

STEVEN PHILIP KRAMER

Commonweal welcomes letters on subjects treated in its pages. Letters of not more than 250 or 300 words naturally have a better chance of being published.

JAMES JOYCE'S PAULINE VISION: *A Catholic Exposition, by Robert Boyle, S.J., Southern Illinois University Press, $9.95, 125 pp.*

Father Boyle belabors neither the Pauline vision nor Catholicism; he simply proceeds from them because Joyce, given his background and his view of language as sacramental, was bound to do so. Joyce was "surrounded by the same words and images" as Hopkins was, and both of them, like Augustine and Shakespeare, found "that Paul had reaches that no extremes of human reason could exhaust."

Much as the Pauline places ("Eye has not seen"; "We walk by faith, not by sight") go to what is "beyond the grasp of reason," Joyce's art aims to apprehend—not comprehend—"humans in reality" and in that apprehension, to body forth the ineffable, the mysterious in the human spirit.

Boyle's approach confines him to no fashionable critical movement; his style is as complex as his subject demands, and as clear as it allows. He can illuminate the suggestions of a pronoun or an article as well as probe the multiple, multiplying complications of a passage from *Ulysses* or *Finnegans Wake*.

His book is for the student of literature, but any reader like me who has been too long away from Joyce will, after Boyle's stimulus, resolve to return and, maybe more important, will find his belief in the oneness of literature sustained. The great (no lesser word will do) concerns of Joyce spread delta-like from a tradition defined, in Boyle's view, by Paul, Shakespeare, Milton and Hopkins—the truly liberal tradition that looks beyond the concrete to glimpse the moral "unfacts" of the soul.

ROBERT L. KING

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Correspondence

(Continued from page 130)

then, clergy, religious and parochial personnel have been engaged in an intensive review/renewal of gospel values, by way of presentations from local and national periti. This revitalized corps in turn will seek to assist the rest of the diocese in taking another look at the very human Church at Albany.

Beginning with the imposition of the penitential ashes, we will be challenged to "Repent and Believe We Are Always His People." Reviving the stational liturgy concept, the ordinary will then crisscross the diocese during the early part of Lent, personally inviting all to a communal re-examination. So as not to leave a stone unturned, towards the end, he will take to the television studio and dialogue with the entire diocese for five evenings at prime time. A hospitality weekend will follow in every parish and mission, to set the tone for a week of regional reconciliation liturgies.

All these events will hopefully enable the liturgically rich actions of the Great Week to work their graceful effects on the diocesan community to a Joyous Easter. Bishop Hubbard, like "Boston conceives of this as only a start. No one can say it is not a hopeful one" too!

(REV.) JOHN D. KIRWIN

Rabbi Heschel

To the Editors: I am in the process of collecting material regarding the life and teachings of the late Rabbi Abraham Joshua Heschel. I would appreciate receiving from your readers their memories of him, memorable incidents, significant teachings, copies of letters.

(RABBI) SAMUEL H. DRESNER
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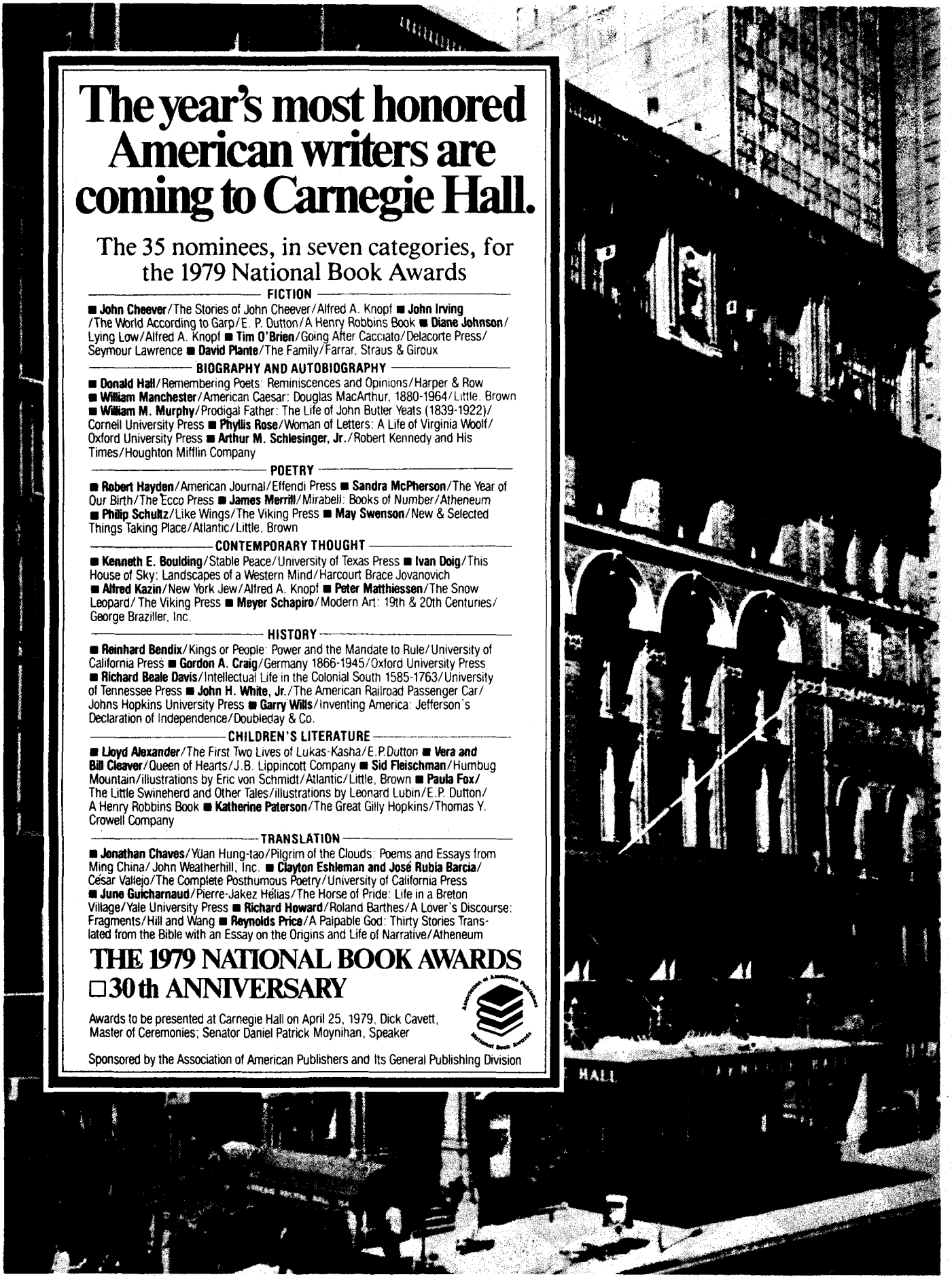

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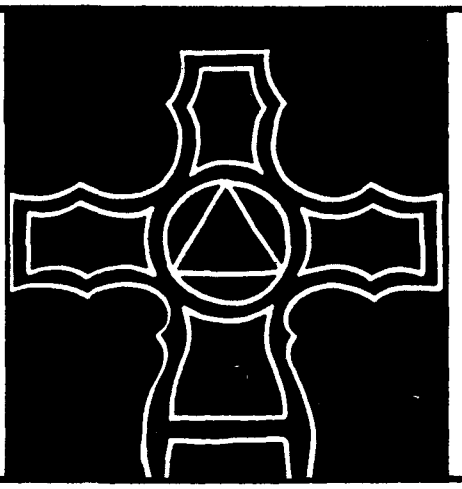

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